HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Friday, May 08, 2015
84th Legislature, Number 66
The House convenes at 9 a.m.
Part Five

Sixty-three of the bills set for second-reading consideration on the daily calendar are listed on the following pages.

Alma Allen
Chairman
84(R) - 66

HOUSE RESEARCH ORGANIZATION

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Friday, May 08, 2015
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Part 5

SUBJECT: Expanding the use of home telemonitoring services under Medicaid

COMMITTEE: Public Health — committee substitute recommended

VOTE: 11 ayes — Crownover, Naishtat, Blanco, Coleman, Collier, S. Davis, Guerra, R. Miller, Sheffield, Zedler, Zerwas

0 nays

WITNESSES: For —Marina Hench, Texas Association for Home Care and Hospice; Ed Stonebraker; (*Registered, but did not testify*: Vicki Perkins and Gabriela Saenz, CHRISTUS Health; Braxton Stonebraker, Guardian eHealth Solutions; Amanda Martin, Texas Association of Business; Jaime Capelo, Texas Chapter American College of Cardiology; Nora Belcher, Texas e-Health Alliance; Dan Finch, Texas Medical Association; Clayton Travis, Texas Pediatric Society; John Davidson, Texas Public Policy Foundation; Eduardo Lazaga; Andrew Levine; Mario Sanchez)

Against — None

On — (*Registered, but did not testify*: Laurie VanHoose, HHSC)

BACKGROUND: Under Government Code, sec. 531.02164, a person diagnosed with a specified condition who also exhibits certain risk factors may receive home telemonitoring services under Medicaid. These conditions include diabetes, heart disease, and cancer.

DIGEST: CSHB 3519 would add to the list of specified conditions for which a person with a certain diagnosis could receive home telemonitoring services under Medicaid other conditions for which the Health and Human Services Commission (HHSC) had made an evidence-based determination that such monitoring would be cost-effective and feasible.

The bill would require that home telemonitoring services be available to a pediatric patient with chronic or complex medical needs who:

- concurrently was undergoing treatment by at least three medical

specialists;

- was medically dependent on technology;
- had been diagnosed with end-stage solid organ disease; or
- required mechanical ventilation.

The bill also would provide Medicaid reimbursement for home telemonitoring services even if the data transmission was unsuccessful if the service provider attempted to communicate with the patient by telephone or in person to establish a successful transmission.

The bill would extend the date by which the HHSC would have to stop reimbursing providers under Medicaid for providing home telemonitoring services from September 1, 2015 to September 1, 2021.

The HHSC executive commissioner would have to adopt rules to implement CSHB 3519, and a state agency needing a waiver or authorization from a federal agency to implement a provision of the bill would be required to request it and delay implementation until receiving approval.

CSHB 3519 would take effect September 1, 2015.

SUBJECT: Filling vacancies created by promotions in fire departments

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 5 ayes — Alvarado, Hunter, R. Anderson, Bernal, Elkins

2 nays — Schaefer, M. White

WITNESSES: For — Alvin White, Houston Professional Firefighters Association; (*Registered, but did not testify*: Mike Martinez; Chris Jones, Combined Law Enforcement Associations of Texas (CLEAT); Sean Dailey and Johnny Villareal, Houston Professional Firefighters Association)

Against — Rodney West, City of Houston Fire Department

BACKGROUND: Local Government Code, sec. 143.108 establishes promotional appointments for fire and police departments. Sec. 143.108(b) requires a department vacancy to be filled from a list of eligible applicants provided by the Fire Fighters' and Police Service Officers' Civil Service Commission within a specified period of time.

Some observers note that promotional vacancies are sometimes left open for long periods of time. When a promotional vacancy is filled from within the department, another vacancy is created, which can create uncertainty about when this subsequent vacancy began and by what time it must be filled.

DIGEST: HB 3032 would require any vacancy created by the promotional appointment of a firefighter or police officer within the department to another position to be considered vacant on the date the initial vacancy was filled.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUBJECT: Mental anguish and exemplary damages for certain wrongful evictions

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Smithee, Farrar, Raymond, Schofield, Sheets, S. Thompson

1 nay — Laubenberg

2 absent — Clardy, Hernandez

WITNESSES: For — Sergio Lejarazu

Against — None

On — John Sepehri, Texas Apartment Association

BACKGROUND: Under Texas common law, tenants may recover from their landlord for wrongful eviction if they can prove that they:

- had an unexpired contract;
- occupied the premises;
- were evicted or dispossessed of the land by the landlord; and
- suffered damages as a result of the eviction.

Civil Practice and Remedies Code, sec. 41.003 provides that exemplary damages may be awarded only if the claimant proves by clear and convincing evidence that the harm suffered resulted from fraud, malice, or gross negligence.

Under sec. 41.008, the amount of exemplary damages awarded against a defendant cannot exceed the greater of:

- two times noneconomic damages, plus the amount of noneconomic damages up to $750,000; or
- $200,000.

Under sec. 41.011, a trier of fact determining the amount of exemplary

damages must consider evidence relating to:

- the nature of the wrong;
- the character of the conduct involved;
- the degree of culpability of the wrongdoer;
- the situation and sensibilities of the parties;
- a public sense of justice and propriety; and
- the net worth of the defendant.

DIGEST:

HB 3561 would allow a claimant who prevailed in wrongful eviction suit to recover damages for mental anguish and exemplary damages, under certain circumstances, if the claimant could show that the evicting property owner would not have been reasonably likely to prevail in an eviction suit under ch. 24.

A claimant could recover mental anguish damages if the claimant could show that in the course of the wrongful eviction, the property owner:

- used or threatened violence to get the claimant to vacate; or
- knowingly or recklessly destroyed or seized all or the majority of the claimant's property located on the leased premises.

The bill would allow a claimant entitled to damages for mental anguish to recover exemplary damages if the claimant proved, by a preponderance of the evidence, that the wrongful eviction was pursued by the property owner solely for the purpose of putting the property to a more profitable use. There would be a rebuttable presumption that the wrongful eviction was solely for a more profitable use if:

- it occurred less than six months after the property owner acquired the property; and
- a structure occupied by the claimant was destroyed by the owner within 60 days after the eviction.

Exemplary damages for wrongful eviction could be the greater of:

- the amount provided under Civil Practice and Remedies Code, sec.

41.008; or

- up to 25 percent of the fair market value of the property from which the claimant was evicted, determined at the time of eviction.

The bill would allow courts to consider evidence of the amount of damages necessary to deter future similar wrongful evictions when calculating exemplary damages in wrongful eviction cases.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015, and would apply only to wrongful evictions that occurred on or after that date.

SUBJECT: Creating new dedicated account for emergency air transportation funding

COMMITTEE: Appropriations — committee substitute recommended

VOTE: 20 ayes — Otto, Ashby, Bell, Burkett, Capriglione, S. Davis, Giddings, Gonzales, Howard, Hughes, Koop, Márquez, McClendon, R. Miller, Phelan, Raney, J. Rodriguez, Sheffield, VanDeaver, Walle

0 nays

7 absent — Sylvester Turner, G. Bonnen, Dukes, Longoria, Miles, Muñoz, Price

WITNESSES: For — Bill Bryant; (*Registered, but did not testify*: Brian Lankford, AeroCare; Joe Estrada, AeroCare/Med-Trans Corp.; Tim Pickering, Air Evac; Brandon Mcguire, Air Evac Lifeteam; Cindy Gurley, Air Med 1; Thomas Kinney and Blythe Long, AMGH; Jake Posey, Bell Helicopter; Stewart Jackson, Lifestar Amarillo; Ashley Liebig and Phil Ward, PHI Air Medical; Glenn Anderson, Southeast Texas Air Rescue; Meredith Harper, REACH Air Medical; Julie Lewis, REACH Air Medical dba Methodist Aircare; Reggie Regan, San Antonio Airlife; Jay Propes, Sierra Health Group; Michael Boulding, Texas AirLIFE, Inc., dba San Antonio AirLIFE; Scott Hitchman, Texas AirLIFE, Inc.; Joshua Houston, Texas Impact; Don McBeath, Texas Organization of Rural and Community Hospitals; Pete Wolf, Windthorst Fire Department)

Against — None

On — (*Registered, but did not testify*: Joseph Schmider, Department of State Health Services; Dan Huggins, Health and Human Services Comission; Dinah Welsh, Texas EMS, Trauma and Acute Care Foundation)

BACKGROUND: While air ambulances can be reimbursed through Medicare and Medicaid, some of those transported do not have insurance or the ability to pay. Medicaid reimbursement rates are below those of Medicare, with both generally being below the cost of the service. Reimbursement through the

trauma fund or the Disproportionate Share Hospital program may not be available for air ambulances.

Transportation Code, sec. 542.4031 establishes a state traffic fine of $30 for those pleading guilty or no contest to offenses under the code. Local jurisdiction can keep 5 percent of the fines, and the rest goes to the state, with 67 percent of the amount going to the undedicated portion of the general revenue fund and 33 percent going to the designated trauma facility and emergency services account established in Health and Safety Code, sec. 780.003.

DIGEST:

CSHB 3077 would establish the emergency medical air transportation account as a dedicated account in the general revenue fund. It would be composed of money deposited to the account from the state traffic fine established in Transportation Code, sec. 542.4031 and interest earned on the account.

Money in the account could be appropriated only to the Department of State Health Services to provide funding for emergency medical air transportation and as a transfer to the Health and Human Services Commission to provide reimbursements under Medicaid to emergency medical air transportation services. Uses of the reimbursements would include reimbursement enhancements to designated air ambulance services. Funds also could be transferred to the commission to maximize the receipt of federal funds under Medicaid.

The bill would adjust the allocation of the state traffic fine. The amount credited to the undedicated portion of general revenue would be reduced from 67 percent to 50 percent, and 17 percent of the fine would be credited to the fund.

The bill would take effect September 1, 2015, and would apply to the distribution of revenue collected on or after that date.

NOTES:

CSHB 3077 would have a negative net impact of $29.6 million to general revenue in fiscal 2016-17. There would be a corresponding increase in the new general revenue dedicated account that would be established by the bill.

SUBJECT: Requiring written notice of hearings to firefighters

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 5 ayes — Alvarado, Hunter, R. Anderson, Bernal, Elkins

2 nays — Schaefer, M. White

WITNESSES: For — Alvin White, Houston Professional Firefighters Association; (*Registered, but did not testify*: Chris Jones, Combined Law Enforcement Associations of Texas (CLEAT); Sean Dailey and Johnny Villareal, Houston Professional Firefighters Association; Glenn Deshields, Texas State Association of Fire Fighters; Mike Martinez)

Against — Cynthia Vargas, City of Houston Fire Department

BACKGROUND: Local Government Code, sec. 143.1014 requires fire and police departments to give firefighters or police officers a minimum of 48 hours' notice of the time and location for a hearing or meeting related to:

- an internal departmental or other municipal investigation of the firefighter or police officer at which the firefighter or police officer is required or entitled to attend; or
- a grievance filed by a firefighter or police officer.

Some fire departments may give notice of hearings by telephone or email. Because firefighters do not always check email on days off, they might not receive notice with sufficient time to acquire adequate representation at the hearing.

DIGEST: HB 2785 would require fire departments to deliver notice of hearings to firefighters either by hand delivery or by certified mail, return receipt requested, to the last home address provided by the firefighter.

The bill would take effect September 1, 2015, and would apply only to a notice required to be provided on or after the effective date.

SUBJECT: Removing the frequency restrictions on charitable raffles

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 6 ayes — Smith, Gutierrez, Geren, Goldman, D. Miller, S. Thompson

0 nays

3 absent — Guillen, Kuempel, Miles

WITNESSES: For — CJ Grisham, Open Carry Texas; (*Registered, but did not testify*: Rick Briscoe, Open Carry Texas)

BACKGROUND: Occupations Code, sec. 2002.002 defines "qualified organization" as a qualified religious society, qualified volunteer fire department, qualified volunteer emergency medical service, or qualified nonprofit organization.

Sec. 2002.052 limits a qualified organization to conducting a maximum of two charitable raffles in a calendar year. Sec. 2002.003(e) specifies that a nonprofit wildlife conservation association, as well as its local chapters, affiliates, wildlife cooperatives or units, each may conduct two charitable raffles each year. Some observers have noted that removing these limitations would give organizations more flexibility to raise money when they need it.

DIGEST: HB 2745 would remove the limit on qualified organizations of conducting two raffles per year. It also would remove the two-raffle limit on nonprofit wildlife conservation associations and their local chapters, affiliates, wildlife cooperatives, or units.

The bill would take effect September 1, 2015.

SUBJECT: Changing the definition and function of veteran's employment preference

COMMITTEE: Economic and Small Business Development — favorable, without amendment

VOTE: 6 ayes — Button, C. Anderson, Faircloth, Isaac, Metcalf, E. Rodriguez

0 nays

3 absent — Johnson, Villalba, Vo

WITNESSES: For — John McKinny, American Legion Department of Texas; Jim Brennan, Texas Coalition of Veterans Organizations; (*Registered, but did not testify*: Kenneth Besserman, Texas Restaurant Association)

Against — None

On — Shawn Deabay, Texas Veterans Commission; Susanna Cutrone, Texas Workforce Commission

BACKGROUND: Government Code, ch. 657 requires public entities and public works to give preference to individuals who qualify for veteran's employment preferences in hiring. Under sec. 657.002, an individual qualifies for a veteran's employment preference if the individual is a competent honorably discharged veteran who served in the military during a national emergency for at least 90 consecutive days or was discharged for a service-connected disability. An individual also could qualify as the orphan or surviving spouse of a veteran meeting the above requirements who was killed while on active duty.

Sec. 657.004 requires employers to give preference to veterans entitled to an employment preference so that at least 40 percent of the employees are selected from that group. If this requirement is not met, then sec. 657.005 requires the hiring manager to employ an applicant entitled to a veteran's employment preference if the applicant is of good moral character and can perform the duties of the position. This requirement no longer applies after the 40 percent quota has been met.

DIGEST:

HB 2996 would eliminate the requirement that public entities or works hire at least 40 percent of their staff from the ranks of veterans eligible for employment preference and replace it with a goal that veterans makes up 15 percent or more of the total workforce at each state agency. An agency could set an employment goal that specified a higher percentage of veterans. It also could designate an open position as a veteran's position and choose to accept applications for that position only from individuals who were entitled to a veteran's employment preference.

The bill would require that at least 20 percent of interviewees for each open position at a state agency be veterans qualified for employment preference. If there were fewer than five interviewees, then at least one interviewee would have to be a veteran. The bill would amend sec. 657.005 so that it required a state agency hiring manager to investigate the qualifications of an applicant who was entitled to a veteran's employment preference but would not require that manager to hire the applicant, regardless of the person's moral character or ability to perform the duties.

This bill also would eliminate certain requirements for an individual to qualify for a veteran's employment preference. Specifically, the bill would eliminate the competency requirement and the condition that the veteran have served during a national emergency.

The bill would entitle a disabled veteran to an employment preference over all other applicants who were not veterans with a disability and who did not have a greater qualification, regardless of whether the position required a competitive examination.

A state agency also would be able to hire a veteran without first advertising the position if the agency used the automated labor exchange system administered by the Texas Workforce Commission to find the veteran.

The bill would require a state agency with at least 500 full-time equivalent positions to designate an individual to serve as a veteran's liaison. Any state agency could designate a veteran's liaison. The bill would require the liaison's work contact information to be posted on the agency's website.

The comptroller would be required to make available on its website the agency report required by current law stating the percentage of the total number of the agency's employees who were veterans and the number of complaints alleging that the veteran's preference was not applied.

The bill would take effect September 1, 2015, and would apply only to a position that first began accepting applications on or after that date.

SUBJECT: Specifying election process for certain county bail bond board members

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 8 ayes — Coleman, Burrows, Romero, Schubert, Spitzer, Stickland, Tinderholt, Wu

1 nay — Farias

WITNESSES: For — (*Registered, but did not testify*: Wynn Dillard; John McCluskey; Scott Walstad)

Against — (*Registered, but did not testify*: William Travis, Micah Harmon, AJ Louderback, and Dennis D. Wilson, Sheriffs' Association of Texas; Clarence Clark; R. Glenn Smith)

BACKGROUND: Occupations Code, sec. 1704.053 establishes the composition of county bail bond boards. Boards include several public officials and certain other individuals. Board members who are not public officials include a bail bond surety and a criminal defense attorney who practices in the county and has been elected by other eligible attorneys in the county.

Sec. 1704.0535 requires a county bail bond board to conduct an annual secret ballot election to elect the member of the board who serves as the representative of licensed bail bond sureties. Each individual licensed in the county as a bail bond surety or agent is entitled to cast one vote for each license held.

Some observers suggest that electing the member representing criminal defense attorneys through a secret ballot procedure would bring more uniformity to the selection process for the bail bond board members.

DIGEST: HB 2894 would require a bail bond board to hold an annual secret ballot election to fill the criminal defense attorney position on the board. Any practicing attorney in the county who was not legally prohibited from representing criminal defendants in the county would be entitled to cast one vote to elect the board member to fill the criminal defense attorney

position.

This bill would take effect September 1, 2015, and would apply only to members elected on or after that date.

SUBJECT: Coordination of primary and secondary dental insurance benefits

COMMITTEE: Insurance — committee substitute recommended

VOTE: 9 ayes — Frullo, Muñoz, G. Bonnen, Guerra, Meyer, Paul, Sheets, Vo, Workman

0 nays

WITNESSES: For — Jose Cazares, Texas Dental Association, Texas Academy of General Dentistry; (*Registered, but did not testify*: Tyler Rudd, Texas Academy of Pediatric Dentistry; Jim Rudd, Texas Society of Oral and Maxillofacial Surgeons)

Against — None

On — Doug Danzeiser, Texas Department of Insurance

BACKGROUND: Dental patients sometimes hold more than one insurance policy that provides dental benefits. State statute currently does not specify how the two policies should coordinate to pay for coverage of dental expenses.

DIGEST: CSHB 3024 would specify that, for a person covered by two different insurance policies that provided dental benefits, the person's primary insurance would be required to cover all dental expenses up to its policy limit before the secondary insurance would begin covering services. The secondary insurance policy would be responsible only for dental expenses covered under the secondary policy that were not covered under the primary insurance policy. After the primary insurance's policy limit was reached, the person's secondary insurance policy would be responsible for any dental expenses covered by both policies that exceeded the primary insurance's coverage limit.

The bill would apply to certain insurance policies with dental benefits as specified in the bill. The bill would not apply to a separate dental policy that exclusively provided a non-coordinated, fixed indemnity benefit, regardless of expenses incurred that would be paid directly to the

policyholder or to the provider under an assignment of benefits provision.

An insurance policy affected by the bill could not be delivered, issued for delivery, or renewed in the state if:

- a provision of the policy excluded or reduced the payment of benefits for dental expenses to or on behalf of a person insured under the policy;
- the reason for the exclusion or the reduction was that dental benefits were payable or had been paid to or on behalf of the insured person under another insurance policy; and
- the exclusion or reduction would apply before the full amount of the dental expenses incurred by the insured person and covered by both policies had been paid or reimbursed or the full amount of the applicable policy limit of the policy containing the exclusion or reduction was reached.

A provision of an insurance policy that violated the above prohibitions would be void.

The bill's provisions would apply only to an insurance policy that was delivered, issued for delivery, or renewed before January 1, 2016. The bill would take effect September 1, 2015.

SUBJECT: Requiring a study on care for veterans with post-traumatic stress disorder

COMMITTEE: Defense and Veterans' Affairs — committee substitute recommended

VOTE: 5 ayes — S. King, Frank, Aycock, Blanco, Farias

2 nays — Schaefer, Shaheen

WITNESSES: For — Greg Hansch, National Alliance on Mental Illness (NAMI) Texas; (*Registered, but did not testify*: Katharine Ligon, Center for Public Policy Priorities; Todd Latiolais, Children at Risk; Eric Woomer, Federation of Texas Psychiatry; Monique Rodriguez, Grace After Fire; Grace Davis, Hays Caldwell Council on Alcohol and Drug Abuse; Bill Kelly, Mental Health America of Greater Houston; Josette Saxton, Texans Care for Children; Jim Brennan, Texas Coalition of Veterans Organizations; James Cunningham, Texas Coalition of Veterans Organizations, Texas Council of Chapters of the Military Officers Association of America; Lee Johnson, Texas Council of Community Centers; LaShondra Jones, Texas Criminal Justice Coalition; Stacy Wilson, Texas Hospital Association; Randall Chapman, Texas Legal Services Center; Michelle Romero, Texas Medical Association; Conrad John, Travis County Commissioners Court; Casey Smith, United Ways of Texas; Olie Pope, Veterans County Service Officers Association of Texas; Adrienne Evans-Quickley, Women's Army Corps Veterans' Association; and seven individuals)

Against — None

On — Sean Hanna, Texas Veterans Commission; Jair Soares, UT Health; (*Registered, but did not testify*: Sonja Gaines, HHSC)

BACKGROUND: More than 2 million veterans nationwide recently served in Iraq and Afghanistan. A substantial number have suffered from post-traumatic stress disorder and other co-occurring disorders, for which the estimated cost for treatment is believed to be significant. As of 2012, there were more than 1.6 million total veterans in Texas, according to the Legislative Budget Board.

DIGEST:

CSHB 3404 would require the Health and Human Services Commission (HHSC) to conduct a study on the benefits of providing integrated care to veterans with post-traumatic stress disorder (PTSD). The study would evaluate the benefits of using a standardized comprehensive trauma and PTSD assessment to identify and target evidence-based treatment services to provide integrated care for veterans diagnosed with PTSD. It also would evaluate benefits of involving family members in the treatment of a veteran diagnosed with PTSD.

The bill would allow HHSC to conduct the study in coordination with a university with expertise in behavioral health or PTSD. HHSC would be required to submit a report containing the results of the study to the governor, lieutenant governor, and speaker of the House by December 1, 2016. The report would have to include the number of people served and the type of integrated care provided through the study.

The bill would take effect September 1, 2015.

SUBJECT: Updating certain portions of the Finance Code relating to consumer credit

COMMITTEE: Investments and Financial Services — committee substitute recommended

VOTE: 7 ayes — Parker, Longoria, Capriglione, Flynn, Landgraf, Pickett, Stephenson

0 nays

WITNESSES: For — Bee Moorhead, Texas Impact; (*Registered, but did not testify*: Mandy Balch, GMDD Investments, Inc., d/b/a Team Dodge Chrysler Jeep of Navasota; David Emerick, JPMorgan Chase; Deborah Polan, One Main Financial, Springleaf Financial, Inc.; Robert Howden, Texas Consumer Finance Association; Jeff Martin, Texas Independent Automobile Dealers Association; Allen Beinke, Texas Property Tax Lienholders Association)

Against — Rob Kohler, Christian Life Commission of the Baptist General Convention of Texas; (*Registered, but did not testify*: Joe Sanchez, AARP Texas; Woody Widrow, RAISE Texas; Yannis Banks, Texas NAACP)

On — Leslie Pettijohn, Office of Consumer Credit Commissioner; Ann Baddour, Texas Appleseed; (*Registered, but did not testify*: Matthew Nance, Office of Consumer Credit Commissioner; Joshua Godbey, Office of the Attorney General)

BACKGROUND: Various sections of the Finance Code cite certain standards and guidelines found in federal statutes and regulations adopted by the Federal Reserve Board and other federal entities to give guidance to Texas courts in interpreting the state's finance laws. Congress created the Consumer Finance Protection Bureau through the federal Dodd-Frank Act of 2010 and made substantial amendments to existing financial regulations and statutes. These reforms changed the context and authority of many of the statutes and regulations cited by the Finance Code.

DIGEST: CSHB 3094 would make revisions and additions to various sections of the Finance Code.

Several provisions in the bill would update sections of the code that cite

rules promulgated by certain federal agencies. These sections would reference, instead of or in addition to rules of the Federal Reserve Board, relevant sections of the Truth in Lending Act and rules adopted by the Consumer Financial Protection Bureau and the Comptroller of the Currency.

One provision of the bill would expand on current law relating to restitution orders made by the consumer credit commissioner. These restitution orders would be subject to the same notice, procedural, and enforcement provisions as administrative penalties imposed by the commissioner for certain violations.

The bill also would allow the consumer credit commissioner to disclose confidential information related to an investigation only if the person under investigation received the information that would be disclosed and consented to the disclosure.

CSHB 3094 would expand on Finance Code, sec. 342.201, which provides maximum interest charges and administrative fees that may be associated with certain consumer loans that are not secured by real property. The new provisions would require that the amount of interest for these loans computed using the true daily earnings method or the scheduled installment earnings method be contracted for, charged, or received using methods specified in the bill.

The bill also would include additional amounts that would be considered itemized charges in a motor vehicle installment sale. An amount in a retail installment contract would be an itemized charge if the amount was not in the cash price and was the amount of the price of accessories and the price of services related to the sale, among other amounts considered to be itemized charges specified in current law.

In addition, a new section would be added to the chapter of the Finance Code governing property tax lenders. The bill would require property tax lenders to maintain a record of each loan they made for four years after the date of the property tax loan or for two years of the date the final entry was made in the record, whichever was later. The record would have to be prepared using accepted accounting practices. Property tax lenders also

would be required to keep each obligation signed by a property owner at an office in the state designated by the lender, unless the obligation was transferred under an agreement that gave the commissioner access to the obligation.

CSHB 3094 also would repeal a portion of the Finance Code that created a program to study and report on lenders who provide high-cost loans to agricultural businesses, small businesses, and individual consumers.

The bill would take effect September 1, 2015.

SUBJECT: Notice of fees at freestanding emergency medical care facilities

COMMITTEE: Public Health — committee substitute recommended

VOTE: 10 ayes — Crownover, Naishtat, Blanco, Coleman, S. Davis, Guerra, R. Miller, Sheffield, Zedler, Zerwas

0 nays

1 absent — Collier

WITNESSES: For —Tucker Anderson, State Association of Freestanding ERs - Texas; Jamie Dudensing, Texas Association of Health Plans; Nancy Nicolas; (*Registered, but did not testify*: Amanda Fredriksen, AARP; Pati McCandless, Blue Cross Blue Shield of Texas; Amanda Martin, Texas Association of Business; Carrie Kroll, Texas Hospital Association)

Against — None

On — John McGee, ER Centers of America, Inc.; (*Registered, but did not testify*: Allison Hughes, Department of State Health Services; Doug Danzeiser, Texas Department of Insurance)

BACKGROUND: Health and Safety Code, ch. 254 regulates freestanding emergency medical care facilities. This chapter defines a "freestanding emergency medical care facility" to mean a facility, structurally separate and distinct from a hospital, that receives an individual and provides emergency care.

Certain facilities are excepted from licensing under ch. 254. Health and Safety Code, sec. 254.051 states that a facility or person may not hold itself out to the public as a freestanding emergency medical care facility or use any similar term that would give the impression that the facility or person was providing emergency care unless the facility or person holds a license or is excepted under ch. 254.

Health and Safety Code, sec. 241.183, as amended by SB 219 by Schwertner in the 84th legislative session, requires the executive

commissioner of the Health and Human Services Commission to adopt rules for a notice to be posted in a conspicuous place in a freestanding emergency medical care facility that notifies prospective patients that the facility is an emergency room and charges rates comparable to a hospital emergency room. Current statute does not define how that notice would be provided or size requirements for the notice.

DIGEST:

CSHB 3475 would require a licensed freestanding emergency medical care facility or a facility excepted from licensing to post conspicuous notice in certain locations at the facility that would state that:

- the facility was a freestanding emergency medical care facility;
- the facility charged rates comparable to a hospital emergency room and could charge a facility fee;
- a facility or a physician providing medical care at the facility might not participate in a patient's health benefit plan provider network; and
- a physician providing medical care at the facility could bill separately from the facility for the medical care provided to the patient.

The bill would specify that the notice would need to be at least 8.5 inches by 11 inches. The notice would have to be posted prominently and conspicuously:

- at the primary entrance to the facility;
- in each patient treatment room; and
- at each location within the facility where people pay for health care services.

The bill also would repeal Health and Safety Code, sec. 241.183, as amended by SB 219 by Schwertner in the 84th legislative session.

The bill would designate a licensed freestanding emergency medical care facility, including a facility excepted from licensing, as a "facility" subject to statutory provisions related to consumer access to health care information.

A freestanding emergency medical care facility would not be required to comply with notice or consumer health information provisions in the bill until January 1, 2016. The bill would take effect September 1, 2015.

SUBJECT: Creating temporary tax exemption for certain multi-user data centers

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 10 ayes — D. Bonnen, Y. Davis, Bohac, Button, Darby, Martinez Fischer, Murphy, Springer, C. Turner, Wray

0 nays

1 absent — Parker

WITNESSES: For — Bryan Marsh, Digital Realty Trust, Inc.; Curt Holcomb, Jones Lang LaSalle; James Grice, Texas Data Center Coalition; (*Registered, but did not testify*: Chris Miller, AECT; Jon Weist, City of Irving; Robert Flores, Data Foundry, Inc.; Fred Shannon, Hewlett Packard; James LeBas, Rackspace)

Against — None

BACKGROUND: Tax Code, sec. 151.359 provides for a 15-year sales tax exemption for certain tangible personal property used in a qualifying data center project. A qualifying data center must:

- be at least 100,000 square feet;
- create at least 20 permanent, full-time jobs; and
- have a capital investment by the owner or operator of at least $200 million.

DIGEST: CSHB 2096 would create a temporary sales tax exemption for certain tangible personal property used in qualifying multi-user data centers, subject to most of the same provisions as the current data center exemption. A data center could be certified as a qualifying multi-use data center project if it:

- created at least 5 permanent, full-time jobs; and
- had a total capital investment by the owner or operators of at least $100 million over a five-year period.

If the total capital investment exceeds $150 million, the sales tax exemption would last for 15 years after certification by the comptroller. Otherwise, the sales tax exemption lasts 10 years.

A person qualifying for a sales tax exemption under these provisions would be eligible to apply for a refund of the sales tax already paid for a taxable item eligible for the exemption, if the item was purchased either after the application for certification is submitted or 180 days before the data center was certified by the comptroller.

This bill would provide that a multi-user data center receiving the sales tax exemption would not be eligible to receive a Chapter 313 limitation in appraised value.

The bill would allow municipalities with a population of less than 35,000 to provide a qualifying multi-user data center with an exemption from municipal sales taxes.

A data center currently receiving a sales tax exemption under Tax Code, sec. 151.359 would be eligible to become a certified qualifying multi-user data center under the provisions in this bill.

The comptroller would be required to adopt rules to implement these provisions.

The bill would take effect September 1, 2015, and would not affect tax liability accruing before that date.

NOTES: The Legislative Budget Board's fiscal note indicates that the bill would have a negative effect of $22.2 million on general revenue related funds during fiscal 2016-17.

SUBJECT: Interstate compact for emergency medical services personnel licensure

COMMITTEE: Public Health — favorable, without amendment

VOTE: 10 ayes — Crownover, Naishtat, Blanco, Coleman, S. Davis, Guerra, R. Miller, Sheffield, Zedler, Zerwas

0 nays

1 absent — Collier

WITNESSES: For — Butch Oberhoff, Texas EMS Alliance; (*Registered, but did not testify*: Margo Cardwell, State Firefighters' and Fire Marshals' Association; G.K. Sprinkle, Texas Ambulance Association; Ryan Matthews and Dudley Wait, Texas EMS Alliance; Courtney DeBower, Texas EMS, Trauma and Acute Care Foundation; Joseph Palfini)

Against — (*Registered, but did not testify*: Edward Jacobson)

On — (*Registered, but did not testify*: Joseph Schmider, DSHS)

BACKGROUND: Emergency medical services (EMS) personnel are generally governed by the laws in their home states and may have to comply with different licensure requirements if they travel to different states. Some states have considered joining interstate compacts to allow EMS personnel to move across state boundaries without having to meet different licensure requirements in each state.

DIGEST: HB 2498 would enact the EMS Personnel Licensure Interstate Compact and would specify that Texas would enter into the compact with all other states legally joining in the compact. The bill also would specify that the states in the compact would create and establish the Interstate Commission for EMS Personnel Practice to carry out the purposes and exercise the powers of the compact.

Interstate Commission for EMS Personnel Practice. The bill would specify that the compact states would create and establish a joint public

agency known as the Interstate Commission for EMS Personnel Practice, which would, by majority vote of its delegates, prescribe bylaws and rules to carry out the purposes and powers of the compact. The bill would specify the procedures for the commission's operation, membership, rulemaking, and activities.

Finance. The commission could accept all appropriate revenue sources, donations and grants of money, equipment, supplies, materials, and services. The commission could levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff. The commission could not pledge the credit of any of the member states, except by and with the authority of the member state.

Database. The commission would provide for the development and maintenance of a coordinated database and reporting system containing licensure, adverse action, and significant investigatory information on all licensed individuals in member states. The bill would specify additional policies related to the database.

Rulemaking hearings. The bill would require the commission to grant an opportunity for a public hearing before it would adopt a rule or amendment if a hearing was requested by at least 25 people, a governmental subdivision or agency, or an association with at least 25 members. The commission could consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing if the commission determined that an emergency existed, provided that the usual rulemaking procedures provided in the compact and in the provisions of HB 2498 would be retroactively applied to the rule as soon as reasonably possible within 90 days. The bill would specify additional policies related to the hearings.

Enforcement. The bill would require the commission, in the reasonable exercise of its discretion, to enforce the provisions and rules of the compact. The commission could initiate legal action by majority vote in the U.S. District Court for the District of Columbia or the federal district where the commission would have its principal offices against a member state in default to enforce compliance with the provisions of the compact

and its promulgated rules and bylaws. The bill would specify the type of relief that could be sought, process for judicial enforcement, and the types of remedies that could be pursued.

Licensure and ability to practice. *Home state licensure.* Any member state in which an individual held a current license would be deemed a home state under the interstate compact. A home state's license would authorize an individual to practice in a remote state, meaning a member state in which the individual was not licensed, only if the home state had certain licensure requirements specified in the bill.

Remote state licensure. HB 2498 would specify conditions and qualifications for an individual to practice in a remote state. Among those conditions, an individual could practice in a remote state under a privilege to practice only when performing EMS duties as assigned by an appropriate authority, as defined in the rules of the commission.

Ability to practice. The bill would specify when an individual could practice in a remote state. Member states would recognize the privilege to practice of an individual licensed in another member state who had conformed with licensure requirements in their home state. To exercise the privilege to practice under the compact, an individual would have to:

- be at least 18 years old;
- have a current unrestricted license in a member state as an EMT, AEMT, paramedic, or state recognized and licensed level with a scope of practice and authority between EMT and paramedic; and
- practice under the supervision of a medical director.

Veterans and licensure. Member states would consider a veteran, active military service member, and member of the National Guard and Reserves separating from an active duty tour, and the person’s spouse as having satisfied the minimum training and examination requirements for licensure in a state if they held a current valid and unrestricted NREMT certification at or above the level of the state license being sought. Member states would expedite the processing of these licensure applications.

Adverse actions. A home state would have exclusive power to impose adverse action against an individual's license issued by the home state. If an individual's license in any home state was restricted or suspended, the individual would not be eligible to practice in a remote state under the privilege to practice until their home state license was restored. The bill would specify additional policies for adverse actions.

Additional powers of a member state's EMS authority. The compact would authorize a member state's EMS authority, in addition to any other powers granted under state law, to issue subpoenas for hearings and investigations and to issue cease and desist orders to restrict, suspend or revoke an individual's privilege to practice in the state.

Oversight. HB 2498 would require the executive, legislative, and judicial branches of state government in each member state to enforce the compact and to take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of the compact and the rules promulgated in the bill's provisions would have standing as statutory law. All courts would take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the compact that could affect the powers, responsibilities, or actions of the commission. Upon request by a member state, the commission would attempt to resolve disputes related to the compact that arose among member states and between member and non-member states.

Default and termination. If the commission determined that a member state had defaulted in the performance of its obligations or responsibilities under the compact or the promulgated rules, the commission would provide written notice to the defaulting state and the member states of the nature of the default, the proposed means of curing the default and any other action to be taken by the commission. The commission also would provide remedial training and specific technical assistance regarding the default.

The bill would provide policies for terminating a state due to default. Among these policies, the bill would specify that a defaulting state could be terminated from the compact if the majority of the member states voted

affirmatively for termination. A state that had been terminated would be responsible for all assessments, obligations, and liabilities incurred through the effective date of termination.

Emergency declarations. If a governor of a member state declared a state of emergency or disaster that activated the Emergency Management Assistance Compact (EMAC), all relevant terms of provisions of the EMAC would apply, and the terms of the EMAC would prevail over the compact with respect to any individual practicing in the remote state in response to a declaration of emergency.

Other cooperative EMS agreements. The bill would specify that nothing in the compact could be construed to invalidate or prevent any EMS personnel licensure agreement or other cooperative agreement between a member state and a non-member state that did not conflict with the provisions of the compact.

Severability. If the compact were held contrary to the constitution of any state member in the compact, the compact would remain in full force and effect for the remaining member states.

Implementation dates. The compact would take effect on the date the compact statute was enacted into law by the tenth member state. On that date, the only provisions that would go into effect would be those that were limited to the powers granted to the commission relating to assembly and promulgation of rules. Thereafter, the commission would meet and exercise rulemaking powers necessary to implement and administer the compact.

Any state that joined the compact after the commission initially adopted the rules would be subject to the rules as they would exist on the date the compact became law in that state. Any rule that the commission had previously adopted would have the full force and effect of law on the day the compact became law in that state.

Withdrawal and amendment. A state could withdraw from the compact by enacting statute that repealed the compact. The bill would specify additional policies regarding withdrawal from the compact. In addition,

the bill would allow the member states to amend the compact. No amendment would become effective and binding for any member state until it was enacted into the laws of all member states.

The bill would take effect September 1, 2015.

SUBJECT: Technical changes to TRS administration and programs

COMMITTEE: Pensions — committee substitute recommended

VOTE: 7 ayes — Flynn, Alonzo, Hernandez, Klick, Paul, J. Rodriguez, Stephenson

0 nays

WITNESSES: For — Beaman Floyd, Texas Association of School Administrators; Ann Fickel, Texas Classroom Teachers Association; (*Registered, but did not testify*: Ted Melina Raab, Texas American Federation of Teachers; Timothy Lee, Texas Retired Teachers Association; John Grey, Texas State Teachers Association)

Against — None

On — Brian Guthrie, Teacher Retirement System

BACKGROUND: The Teacher Retirement System of Texas (TRS) delivers retirement and health benefits for retired school employees and operates a health insurance plan for employees of certain school districts. Some have called for clarification of the laws regulating TRS to provide for more efficient delivery of benefits.

DIGEST: CSHB 3897 makes changes to TRS administration and board of trustees regarding management of retirement and health care programs for active and retired school personnel.

Board of trustees. The bill would allow the board of trustees to accept on behalf of the retirement system gifts of money, services, or property from any public or private source.

The bill would exempt from state open meetings requirements a gathering of trustees attending a conference, convention, workshop, or other event held for educational purposes if the trustees did not deliberate, vote, or take action on a specific matter of public business or public policy.

The bill also would allow board members to confer in a closed meeting regarding investment transactions or potential investment transactions if, before conducting the closed meeting, a majority of the board in an open meeting voted that open deliberations would have a detrimental effect on the position of the retirement system in negotiations with third parties or would put the retirement system at a competitive disadvantage in the market.

Ethics. The bill would make confidential and excepted from public information requirements all personal financial disclosures made by TRS employees under statutory provisions related to the TRS ethics policy, including a rule or policy adopted under those provisions.

Retirement system. The bill would change the definition of "annual compensation" to mean the compensation to a member of the retirement system for service during a 12-month period determined by the retirement system rather than a school year. It would add a provision to allow membership in the retirement system to be established through employment with a single employer on at least a half-time basis.

The bill would prohibit a TRS member from purchasing more than five years of service credit for service considered nonqualified under IRS laws.

The bill would establish procedures for correcting errors made by an employer reporting an employee's service time or compensation. Employer reports regarding members' earnings, employment status, and hours and days worked would be subject to audit and examination.

The assets of the retirement system would be maintained and reported according to generally accepted accounting principles prescribed by the Governmental Accounting Standards Board.

Retiree health benefits. Coverage under the group health program for a retiree and dependents would be suspended during any period the retiree elected health coverage under the Employee Retirement System of Texas or a group plan for employees of the University of Texas System or Texas A&M University System or was employed by a public school and eligible

for health coverage offered by the school. During the coverage suspension, a retiree and dependents would remain enrolled in the TRS group health program and could be reactivated if the retiree ceased to be covered by the other plans.

The bill would require school districts and charter schools participating in TRS and regional education service centers to report annually to TRS the monthly amount each contributes toward the payment of health coverage.

This bill would take effect September 1, 2015, and certain provisions would apply only to TRS members who retire on or after the effective date.

SUBJECT: Updating licensing, offenses related to money service businesses

COMMITTEE: Investments and Financial Services — favorable, without amendment

VOTE: 7 ayes — Parker, Longoria, Capriglione, Flynn, Landgraf, Pickett, Stephenson

0 nays

WITNESSES: For — None

Against — Michael Cargill

On — Daniel Wood, Texas Department of Banking; (*Registered, but did not testify*: Stephanie Newberg, Texas Department of Banking)

BACKGROUND: Finance Code, ch. 151 regulates the licensing of money service businesses, which deal with money transmission or currency exchange. Sec. 151.003 contains a list of entities that are exempt from the chapter's licensing requirements. The list is composed primarily of government agencies and the agents of money service businesses, including armored car drivers.

Under sec. 151.605(g)(3), a personal representative, custodian, guardian, conservator, trustee, or court appointed officer who gains legal control of a license holder is exempt from requirements related to change of control of a license holder. Under sec. 151.506, licensed money service businesses are required to maintain a $2,500 security.

Finance Code, sec. 151.708(c) permits the finance commissioner to file a criminal referral with the appropriate prosecuting attorney if the commissioner suspects that a money service business has committed an offense under the chapter.

Some have expressed concern that several provisions in existing law governing money service businesses lack clarity or otherwise should be updated to reflect the evolving nature of the industry.

DIGEST:

HB 2676 would change several licensing requirements and criminal actions relating to money service businesses.

The bill would exempt an armored car driver from the licensing requirement if the driver transported currency only from a person or financial institution to another location or account belonging to the same person and was not otherwise engaged in the money transmission or currency exchange business.

The bill would maintain the security requirement at $2,500 for license holders that conducted business exclusively at one or more physical locations in the state through in-person, contemporaneous transactions. For a currency exchange license holder that did not fit the above description, the bill would change the security requirement to be $2,500 or 1 percent of the total dollar volume of currency the holder had exchanged in Texas in the preceding year, whichever was greater. For a license applicant that did not meet the above description, the security requirement would be $2,500 or 1 percent of the total dollar value of currency the applicant expected to exchange in the first year of licensure. The maximum amount of security that could be required would be $1 million.

A person who gained legal control of a license holder as a personal representative, custodian, guardian, conservator, trustee, or court appointed officer would no longer be exempt from requirements relating to the change of control of a license holder.

The bill would repeal a statutory provision that currently defines “receive” as obtaining possession of money in a manner that cannot be reversed through the exercise of routine contractual or statutory rights.

The bill also would allow an offense to be prosecuted in Travis County or the county in which a violation of licensing requirements occurred without the finance commissioner first making a criminal referral.

The bill would take effect September 1, 2015, and would apply only to offenses on or after that date.

SUBJECT: Allowing certain lenders to offer life insurance to borrowers

COMMITTEE: Investments and Financial Services — favorable, without amendment

VOTE: 7 ayes — Parker, Longoria, Capriglione, Flynn, Landgraf, Pickett, Stephenson

0 nays

WITNESSES: For — Kevin Fontenette and Brad Steveson, Springleaf Financial Services, Inc.; Joseph D. Fagan, Springleaf Financial Services and Merit Life Insurance Co.; (*Registered, but did not testify*: Deborah Polan, Springleaf Financial Services, Inc.)

Against — Ann Baddour, Texas Appleseed; (*Registered, but did not testify*: Tim Morstad, AARP; Joe Sanchez, AARP Texas; Kathryn Freeman, Christian Life Commission; Woody Widrow, RAISE Texas; Yannis Banks, Texas NAACP; Felice Garza and Estela Soza Garza, Valley Interfaith; Myrna Perez and Francisco Perez, Valley Interfaith, St. Joseph the Worker Church, McAllen, TX)

On — Leslie Pettijohn, Office of Consumer Credit Commissioner

BACKGROUND: Finance Code, ch. 342 regulates consumer loans. An increasing number of Texans are using the services of small consumer lenders, such as payday and car title lenders.

DIGEST: HB 3938 would allow a lender on a loan subject to Finance Code, ch. 342, subch. E to offer life insurance premiums to borrowers. The lender would be required to offer the insurance through a properly licensed insurance agent and could not require the borrower to accept the insurance. The lender would have to provide the option to pay the premium from the borrower's own funds or with a portion of the loan proceeds.

The bill would take effect January 1, 2016, and would apply only to an insurance policy delivered, issued, or renewed after that date.

SUBJECT: Creating a criminal offense for voyeurism

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Herrero, Moody, Canales, Hunter, Leach, Shaheen, Simpson

0 nays

WITNESSES: For — (*Registered, but did not testify*: David Mintz, Texas Apartment Association; Chris Kaiser, Texas Association Against Sexual Assault; Gary Chandler, Texas Department of Public Safety Officers Association; Justin Bragiel, Texas Hotel and Lodging Association; Lon Craft, Texas Municipal Police Association; Frederick Frazier; Marla Flint; Jeffrey Knoll)

Against — Patricia Cummings, Texas Criminal Defense Lawyers Association

BACKGROUND: Penal Code, ch. 21 establishes sexual offenses, including public lewdness, a class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000), and indecent exposure, a class B misdemeanor (up to 180 days in jail and/or a maximum fine of $2,000). It does not include an offense specifically for voyeurism.

DIGEST: CSHB 207 would create a criminal offense in Penal Code, ch. 21 called voyeurism. It would be an offense for an individual, with the intent of arousing or gratifying the individual's sexual desire, to observe another person without the other's consent while the other person was in a dwelling or structure in which the other person had a reasonable expectation of privacy. An offense would be class C misdemeanor (maximum fine of $500). Third and subsequent offenses would be class B misdemeanors (up to 180 days in jail and/or a maximum fine of $2,000). The offense would be a state-jail felony (180 days to two years in a state jail and an optional fine of up to $10,000) if the victim was a child younger than 14 years old.

The bill would take effect September 1, 2015.

SUBJECT: Waiving hunting and fishing license fee for certain military personnel

COMMITTEE: Culture, Recreation and Tourism — favorable, without amendment

VOTE: 4 ayes — Guillen, Larson, Murr, Smith

0 nays

3 absent — Dukes, Frullo, Márquez

WITNESSES: For — None

Against — None

On — Justin Halvorsen, Texas Parks and Wildlife Department

BACKGROUND: Parks and Wildlife Code, sec. 50.002 sets the fee for the combination hunting and fishing license at $12 for the annual license and $500 for a lifetime license, or an amount set by the Parks and Wildlife Commission, whichever amount is more.

DIGEST: HB 118 would require the Texas Parks and Wildlife Commission to waive the combination resident hunting and fishing license fee for a qualified disabled veteran or a resident who held a valid military identification card and was on active duty in the U.S. military, the Texas Army National Guard, the Texas Air National Guard, or the Texas State Guard.

A valid military identification card would be sufficient to establish Texas residency for the purpose of a license fee waiver. The fee waiver would not apply to retired military or dependents unless otherwise qualified.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUBJECT: Ethics Commission procedures, authority relating to local officials

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 8 ayes — Cook, Giddings, Farney, Geren, Harless, Huberty, Kuempel, Smithee

0 nays

4 absent — Craddick, Farrar, Oliveira, Sylvester Turner

WITNESSES: For — Tom "Smitty" Smith; (*Registered, but did not testify*: David Power, Public Citizen; Paul Silver, Texas Anti-Corruption Campaign; Donnis Baggett, Texas Press Association; Jeffrey Knoll)

Against — Kristen McDanald, Empower Texans; Dalton Oldham, Empower Texans, Texas Right to Life; Joe Nixon and Trey Trainor, Empower Texans, Texas Right to Life, and Texas Home School Coalition; Tony McDonald, Empower Texans, Law Offices of Tony McDonald; (*Registered, but did not testify*: Ann Hettinger, Concerned Women for America of Texas; Michael Quinn Sullivan, Empower Texans; Dustin Matocha, Texans for Fiscal Responsibility; MerryLynn Gerstenschlager, Texas Eagle Forum; Jeremy Newman, Texas Home School Coalition; Emily Horne and Emily Kebodeaux, Texas Right To Life; Jonathan Saenz, Texas Values Action; and five individuals)

On — (*Registered, but did not testify*: Natalia Ashley, Texas Ethics Commission)

BACKGROUND: Government Code, ch. 571 governs the Texas Ethics Commission. It gives the commission authority to administer and enforce certain laws, including Government Code, ch. 572, which deals with financial disclosure statements required of certain officials. In a December 2014 report, the commission outlined numerous proposed revisions to its statutes, including those governing its procedures and its authority as it relates to local officials.

DIGEST:

Administration and enforcement authority. CSHB 22 would revise the list of laws that the Ethics Commission must administer and enforce as part of its general powers and duties to include statutes governing certain local officials. Added to the list would be:

- Local Government Code, ch.145 provisions requiring municipal officers in a city with a population of 100,000 or more, to the extent that the officers are required under that chapter to file a personal financial statement with the commission;
- Local Government Code, ch. 159 provisions requiring a county and precinct officers in counties with populations of 100,000 or more and county and precinct officers in counties with populations of 125,000 or more to the extent that the officers are required under that chapter to file personal financial statements with the commission;
- Government Code, ch. 30.00044(j) provisions requiring a municipal judge of Lubbock to file personal financial statements with the commission; and
- any requirement under state law that a local officer must file a personal financial disclosure statement.

The commission would be required to prepare an advisory opinion answering a request from a person subject to the same laws listed above.

Notifications. The commission would be required to adopt rules establishing how the commission would notify anyone or provide notice as required under Government Code, ch. 571, which covers ethics; Government Code, ch. 305 which covers the registration of lobbyists; and Election Code, title 15, which covers regulating political funds and campaigns.

The bill would eliminate requirements that the commission *mail* certain notifications to those required to file financial disclosure statements with the commission. Instead the commission would be required to *notify* individuals of certain information concerning the statements, including the way to file the statements electronically. The current deadlines for making these notifications could be amended by commission rule, as could the current requirements that the commission mail financial statement forms.

Confidential information. The commission would be given authority, under certain circumstances, to disclose to law enforcement agencies certain information that currently is confidential and that relates to preliminary review hearings, sworn complaints, and motions. The disclosure would have to be made to protect the public interest and be disclosed only to the extent necessary for the law enforcement agency to perform a duty or function that was in addition to the commission's duties or functions. The disclosed information would remain confidential. It would be a class C misdemeanor (maximum fine of $500) to disclose information obtained under this provision.

Other provisions. CSHB 22 would make confidential electronic report data saved in a commission temporary storage location for later retrieval and editing. After a report was filed, the information disclosed in the report would be subject to the law that required the filing of the report.

The bill would define “groundless” for the purpose of assessing civil penalties for complaints that were frivolous and brought in bad faith. Complaints would be considered groundless if they did not allege a violation of the law that was material, nonclerical, or nontechnical.

This bill would take effect September 1, 2015.

SUBJECT: Creating sales tax holidays for firearms and hunting supplies

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 7 ayes — D. Bonnen, Bohac, Button, Darby, Murphy, Springer, Wray

3 nays — Y. Davis, Martinez Fischer, C. Turner

1 absent — Parker

WITNESSES: For — Tara Mica, National Rifle Association; (*Registered, but did not testify*: Marida Favia del Core Borromeo, Exotic Wildlife Association; Richard Briscoe, Open Carry Texas; Jim Sheer, Texas Retailers Association; Ronnie Volkening, Texas Retailers Association; Alice Tripp, Texas State Rifle Association)

Against — None

BACKGROUND: Tax Code, ch. 151 imposes a 6.25 percent sales tax on the sale of taxable items.

DIGEST: CSHB 849 would exempt the sale of firearms and hunting supplies from sales taxes, if the sale took place on Saturday of the last full weekend in August or on Saturday of the last full weekend in October.

The bill would define "hunting supplies" to mean:

- ammunition;
- archery equipment;
- hunting blinds and stands;
- hunting decoys;
- firearm cleaning supplies;
- gun cases and gun safes;
- hunting optics; and
- hunting safety equipment.

This bill would not affect tax liability accruing before its effective date.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

If the bill did not take effect until September 1, the sales tax holiday that otherwise would begin the last full weekend in August instead would begin on the Friday before the first full weekend in September and would end at midnight on Sunday. This provision would apply only for 2015, and subsequent hunting sales tax holidays would occur on the last full weekend in October and the last full weekend in August.

NOTES:

The Legislative Budget Board's fiscal note indicates that the bill would have a negative impact of $11.1 million on general revenue related funds through fiscal 2016-17.

SUBJECT: Increasing payments to survivors of those killed in the line of duty

COMMITTEE: Pensions — committee substitute recommended

VOTE: 6 ayes — Flynn, Alonzo, Klick, Paul, J. Rodriguez, Stephenson

0 nays

1 absent — Hernandez

WITNESSES: For — Charley Wilkison, Combined Law Enforcement Associations of Texas; Amanda Hurst; (*Registered, but did not testify*: Ricky Hollis; Donald Zavodny, AFSCME Texas Corrections; Randy Moreno, Austin Firefighters Association; Chris Jones, Combined Law Enforcement Associations of Texas (CLEAT); Amy Ramon, Cy-Fair Volunteer Fire Department; Michael Richardson, Decatur Fire Department; Dan Key, Friendswood Volunteer Fire Department; David Sinclair, Game Warden Peace Officers Association; Ray Hunt, Houston Police Officers' Union; Bill Elkin, Houston Police Retired Officers Association; Sean Dailey, Houston Professional Firefighters Association; Aidan Alvarado, Laredo Firefighters; David Stacy, Midland Firemen's Relief and Retirement Fund; Joe Carrillo, San Antonio Police Officers Association; Jimmy Rodriguez, San Antonio Police Officers Association; Rusty Kattner, Santa Fire and Rescue; Bill Gardner, State Firemen and Fire Marshals Association; Joe Franco, TABC Officers Association; Harry Nanos, TABC Officers Association; Ted Melina Raab, Texas American Federation of Teachers; Kaleb McLaurin, Texas and Southwestern Cattle Raisers Association; Larry McGinnis, Texas Department of Public Safety Officers Association; Glenn Deshields, Texas State Association of Fire Fighters; Harrison Hiner, Texas State Employees Union; Deborah Ingersoll, Texas State Troopers Association; Lon Craft, Texas Municipal Police Association)

Against — None

On — (*Registered, but did not testify*: Robin Hardaway, Employees Retirement System)

BACKGROUND:

Government Code, sec. 615.022 provides for payments of $250,000 to the survivors of law enforcement officers, firefighters, and certain other public employees killed in the line of duty. Sec. 615.023 provides for monthly payments ranging from $200 to $400 to surviving minor children, depending on the number of children.

Noting that the lump sum survivors' benefit has not increased in more than a decade and the monthly benefit for surviving children has not increased in about four decades, some have called for reasonable increases in benefits to meet the rising cost of inflation for the families of those public servants who sacrificed their lives serving their communities.

DIGEST:

CSHB 1278 would double the state's payment to survivors of peace officers, firefighters, prison guards, and certain other public employees killed in the line of duty. An eligible surviving spouse would receive $500,000. If there were no surviving spouse, the state would make the payment in equal shares to surviving children. If there were no surviving spouse or child, the payment would go in equal shares to surviving parents. The bill would require the following monthly payments to eligible surviving minor children:

- $400 for one child;
- $600 for two children; and
- $800 for three or more children.

The monthly payments would end on the last day of the month that includes the child's 18th birthday.

This bill would take effect September 1, 2015, and would apply to payments made on or after that date.

NOTES:

The Legislative Budget Board estimates the bill would have a negative impact of $6.7 million for fiscal 2016-17.

SUBJECT: Creating a joint interim committee to study storage of biometric identifiers

COMMITTEE: Government Transparency and Operation — favorable, without amendment

VOTE: 7 ayes — Elkins, Walle, Galindo, Gonzales, Gutierrez, Leach, Scott Turner

0 nays

WITNESSES: For — (*Registered, but did not testify*: Wendy Reilly, HID Global; Sarah Matz, TechAmerica)

Against — None

BACKGROUND: According to Government Code, sec. 560.001, a "biometric identifier" means a fingerprint, a retina or iris scan, a voiceprint, or a record of hand or face geometry.

Sec. 560.002 requires a government body that has biometric identifiers to store, transmit, and protect the identifiers from disclosure using reasonable care and in a manner that is the same as or more protective than the manner in which the governmental body stores, transmits, and protects its other confidential information.

DIGEST: HB 852 would create a joint interim committee to study and review the methods by which state agencies stored biometric identifiers. The bill would require the study to consider:

- the level of security provided by state agencies in storing biometric identifiers;
- any changes agencies should make to ensure the biometric identifiers were stored securely; and
- whether increased security was necessary and, if so, whether additional funds were necessary to increase security.

The committee conducting the study would consist of three senators

appointed by the lieutenant governor and four members of the House of Representatives appointed by the speaker. One senator and one representative each would be designated co-chair. The committee would be appointed no later than 60 days after the bill took effect. The Texas Legislative Council would be required to provide any necessary staff and resources to the committee.

The bill would require the committee to meet at least twice as called by the co-chairs and to produce a report of the committee's findings and recommendations to the Legislature by December 1, 2016. The report would include in the committee’s recommendations any specific statutory and rule changes that appeared necessary.

The bill would take effect September 1, 2015, and the committee would be abolished March 1, 2017.

SUBJECT: Providing court-appointed counsel for certain writs of habeas corpus

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Herrero, Moody, Canales, Hunter, Leach, Simpson

0 nays

1 absent — Shaheen

WITNESSES: For — Alex Bunin, Harris County Public Defender; Elizabeth Henneke, Texas Criminal Justice Coalition; (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; Charles Reed, Dallas County Commissioners Court; Thomas Ratliff, Harris/Ft. Bend County Criminal Lawyers Association; Kristin Etter, Texas Criminal Defense Lawyers Association; Scott Henson, Texas Criminal Justice Coalition)

Against — None

On — Wesley Shackelford, Texas Indigent Defense Commission

BACKGROUND: Writs of habeas corpus are a way to challenge the constitutionality of a criminal conviction or the process that resulted in a conviction or sentence. Code of Criminal Procedure, art. 11.071 provides for court-appointed counsel to assist with applications for writs of habeas corpus for indigent defendants who desire counsel and have been sentenced to death. No such provision exists for defendants convicted in non-death penalty cases.

Code of Criminal Procedure, art. 1.051 defines "indigent" as someone who is not financially able to employ counsel, and art. 26.04(m) lists factors that courts may consider when determining indigency, including income, assets, outstanding obligations, dependents, and spousal income.

Under Code of Criminal Procedure, art. 26.05, attorneys appointed to represent criminal defendants receive compensation based on the time and labor required of them, the complexity of the case, and the experience and

ability of appointed counsel. Judges of county courts, statutory county courts, and district courts are required to adopt fee schedules for payments to court-appointed attorneys.

DIGEST:

CSHB 1346 would require courts to appoint attorneys to represent indigent defendants who sought relief on writs of habeas corpus from convictions that imposed penalties other than death or that ordered community supervision if the state represented to the convicting court that the defendant:

- was not guilty;
- was guilty of only a lesser offense; or
- was convicted or sentenced under a law that had been found unconstitutional by the court of criminal appeals or the U.S. Supreme Court.

Attorneys could be appointed to represent defendants in the process of filing writs of habeas corpus or in proceedings based on the applications for writs. Attorneys appointed under this bill would be compensated at the same rate as attorneys appointed to represent criminal defendants at trial.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015, and would apply to a writ application regardless of when the offense for which the applicant was in custody was committed.

SUBJECT: Safety requirements for construction and maintenance work zones

COMMITTEE: Transportation — committee substitute recommended

VOTE: 12 ayes — Pickett, Martinez, Burkett, Y. Davis, Fletcher, Harless, Israel, McClendon, Murr, Paddie, Phillips, Simmons

0 nays

WITNESSES: For — Sarah Roth; (*Registered, but did not testify*: Fred Shannon, Texas Association of Manufacturers; Ian Randolph, Texas Transportation Association; Joseph Roth)

Against — (*Registered, but did not testify*: Eddie Solis, City of Arlington)

On — Robert Bass, County Judges and Commissioners of Texas; Stuart Corder, Harris County Engineering; (*Registered, but did not testify*: William Diggs, Texas DPS; John Barton, James Bass, and Bill Hale, TxDOT)

BACKGROUND: Transportation Code, sec. 542.404 specifies fines for violations in highway construction and maintenance work zones. Ch. 545, subch. H governs speed restrictions under various circumstances.

Highway work zones are considered dangerous because lanes are re-routed to have traffic move in opposite directions on the same strip of pavement. Currently, there is no requirement to separate directions of travel in work zones on Texas highways. Speeding in these areas can lead to tragedies, such as head-on collisions in highway work zones.

DIGEST: CSHB 1238 would require entities that established a construction or maintenance work zone to install physical barriers that separated lanes with traffic traveling in opposite directions. Signs designating such a work zone would indicate that it was a construction or maintenance work zone, indicate its beginning and end, and state that fines would double when workers were present.

CSHB 1238 also would lower speed limits in construction or maintenance work zones to 20 miles per hour less than the normal speed limit on that road. The minimum and maximum fines for violating this speed limit in a work zone where workers were present would be double the usual minimum and maximum fines for that offense. The entity responsible for speed-limit signs on that road would be responsible for installing signs indicating the lower speed limit.

The lower speed limit and sign requirements would not apply to roads in work zones that had two directions of traffic and were divided into three or more lanes in each direction or roads with a speed limit of 35 miles per hour or less.

CSHB 1238 would take effect September 1, 2015.

SUBJECT: Transferring operation of the Office of Consumer Affairs for DFPS

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 7 ayes — Dutton, Riddle, Hughes, Peña, Rose, Sanford, J. White

0 nays

WITNESSES: For — Katherine Barillas, One Voice Texas; Sarah Crockett, Texas CASA; and five individuals (*Registered, but did not testify*: Marian Jane, Elizabeth Jurenovich, and Chavon Withrow, Abrazo Adoption Associates; Lee Spiller, Citizens Commission on Human Rights; Reyna Rutan, Foster Youth Leadership Council; Nicole Kidd, Natalie Munlin and Erskine McDaniel, Intended Parents' Rights; Will Francis, National Association of Social Workers-Texas Chapter; Judy Powell, Parent Guidance Center; Josette Saxton, Texans Care for Children; Connie Gray and Daryn Watson, Texas Adoptee Rights; Andrew Homer, Texas CASA; Douglas Smith, Texas Criminal Justice Coalition; Steve Bresnen, Texas Family Law Foundation; Yannis Banks, Texas NAACP; Casey Smith, United Ways of Texas; and 16 individuals)

Against — None

On — John Specia, Department of Family and Protective Services; (*Registered, but did not testify*: Elisa Hendricks, Health and Human Services Commission)

BACKGROUND: Human Resources Code, sec. 40.0041 requires the Department of Family and Protective Services (DFPS) to maintain a system to receive and resolve complaints against DFPS from the public, consumers, and service recipients. DFPS may elect to promote this complaint system on registration forms for services regulated by DFPS, on a sign in a place of business regulated by DFPS, or in a bill for service provided by a person regulated by DFPS.

Complaints must be tracked through a centralized system, and records of these complaints are required to be maintained at DFPS' state

headquarters. Periodically, this information must be delivered by report to the executive director of DFPS. To satisfy these requirements, DFPS operates the Office of Consumer Affairs to investigate complaints.

DIGEST:

CSHB 1371 would transfer operation of the Office of Consumer Affairs (OCA) from the Department of Family and Protective Services (DFPS) to the Health and Human Services Commission (HHSC). This would include all personnel, funding, records, and authority currently allocated to the OCA within DFPS. The bill also would amend many of the responsibilities and duties of the OCA.

Duties. The OCA would develop a statewide system to receive and address complaints against DFPS. It would file reports with DFPS containing the OCA's final determination and actions to be taken after the conclusion of a complaint investigation. Also, if the OCA discovered unreported violations while completing a different investigation, the OCA would be required to open up new investigations for each violation discovered.

Confidential communications. The bill would require DFPS to permit all employees, children under DFPS conservatorship, and adults receiving protective services to communicate with the OCA, and would provide that these communications, regardless of means, be kept confidential and privileged. The bill also would require the OCA to keep its records confidential, unless a court order on a showing of good cause was issued to disclose the records. The office would be permitted to make reports public following the completion of an investigation, but the bill would require that all names in the report be redacted and that this information would remain confidential.

Protection from retaliation. The bill would prohibit retaliation by DFPS against any DFPS employee or anyone else who in good faith made a complaint or request for information to the OCA or cooperates with the OCA in an investigation. The bill would require the OCA to collaborate with every division of DFPS to develop tiered consequences for retaliating against a child under DFPS conservatorship based on the severity of the retaliation and the extent of the offense underlying the complaint.

Promotion of the OCA. The OCA at HHSC would be required annually to develop and implement an outreach plan to promote awareness of the office and its services, including ensuring that all residential facilities in which children in DFPS conservatorships live had information displayed about the OCA and how to file a complaint.

Reporting requirements. The bill would require the OCA to file a report by October 1 each year with the executive commissioner of HHSC and commissioner of DFPS outlining the OCA's work, including, among other details, a summary of each complaint the office received and any trends in the nature of inquiries or complaints.

The bill would take effect September 1, 2015.

NOTES: The Legislative Budget Board estimates a negative fiscal impact of $1.1 million in general revenue through fiscal 2016-17, mainly in OCA staff and associated costs.

SUBJECT: Specifying the process for rescinding the acceleration of a mortgage

COMMITTEE: Business and Industry — committee substitute recommended

VOTE: 7 ayes — Oliveira, Simmons, Collier, Fletcher, Rinaldi, Romero, Villalba

0 nays

WITNESSES: For — Brian Engel, Barrett, Daffin, Frappier, Turner, and Engel; Mark Hopkins; (*Registered, but did not testify*: Thomas Tallent, Cendera Funding, Inc.; Brian Yarbrough, JPMorgan Chase; Vicki Truitt, Mackie, Wolf, Zientz, and Mann; Daniel Gonzalez, Texas Association of Realtors; John Heasley, Texas Bankers Association; Kelly Rodgers, Wells Fargo Bank)

Against — None

On — Karen Neeley, Independent Bankers Association of Texas; John Fleming, Texas Mortgage Bankers Association; (*Registered, but did not testify*: Caroline Jones, Texas Department of Savings and Mortgage Lending; Robert Doggett, Texas Family Council)

BACKGROUND: Before a lender can foreclose on a mortgage, it often must first accelerate the loan. Lenders and borrowers usually work out an arrangement to rescind the acceleration so borrowers can stay in their homes. Texas law does not explicitly address what happens when a lender and a borrower arrange a deal to rescind an acceleration.

DIGEST: Under CSHB 2067, if the maturity date of a series of notes or obligations or a note or obligation payable in installments was accelerated, and the accelerated maturity date was rescinded or waived before the limitation period expired, the obligation or series of notes or obligations would be governed as if no acceleration had occurred. The rescission would have to be:

- made in writing by first-class or certified mail;
- served by the lienholder, the servicer of the debt, or an attorney

representing the lienholder; and

- served on all debtors who were obligated to pay the debt at their last known address.

Notice served under CSHB 2067 would not affect a lienholder's right to accelerate the loan in the future, nor would it waive past defaults. The bill would not create an exclusive method for waiving or rescinding the acceleration of a loan. It also would not affect the accrual of a cause of action and the running of the related limitations period on any subsequent maturity date of the note or obligation or series of notes or obligations.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015, and would apply to a maturity date accelerated or an acceleration that was rescinded before, on, or after that date.

SUBJECT: Contents of personal financial statements filed with Ethics Commission

COMMITTEE: General Investigating and Ethics — committee substitute recommended

VOTE: 7 ayes — Kuempel, Collier, S. Davis, Hunter, Larson, Moody, C. Turner

0 nays

WITNESSES: For — Carol Birch, Public Citizen, Texans for Public Justice; (*Registered, but did not testify*: Jules Dufresne, Common Cause Texas; Kelley Shannon, Freedom of Information Foundation of Texas)

Against — None

On — (*Registered, but did not testify*: Ian Steusloff, Texas Ethics Commission

BACKGROUND: Government Code, sec., 572.021 requires state officers, certain candidates, and certain others to file personal financial statements with the Texas Ethics Commission. Sec. 572.023 lists what must be included in the financial statements. Sec. 572.022 establishes four categories for reporting amounts used in the personal financial statements: less than $5,000; at least $5,000 but less than $10,000; at least $10,000 but less than $25,000; and $25,000 or more.

DIGEST: CSHB 1059 would make several revisions to the contents of the personal financial statements that are required to be filed with the Texas Ethics Commission.

The bill would revise the reporting categories used on personal financial statements and would expand the categories from three to 10. The new categories would be:

- less than $200;
- at least $200 but less than $1,000;
- at least $1,000 but less than $2,500;
- at least $2,500 but less than $5,000;

- at least $5,000 but less than $15,000;
- at least $15,000 but less than $50,000;
- at least $50,000 but less than $100,000;
- at least $100,000 but less than $1,000,000;
- at least $1,000,000 but less than $5,000,000; or
- $5,000,000 or more.

If a gift was cash or a cash equivalent, the description of the gift would have to include the actual face value of the gift, rather than the value as required under current law. Other gifts would have to include a statement of the value of a gift.

CSHB 1059 would revise the time periods for which financial statements had to include an accounting of the financial activity of an individual and the financial activity of the individual's spouse and dependent children if the individual had control over that activity. In addition to the current requirement that the information be reported for the preceding calendar year, information would have to be reported for both the preceding calendar year and, listed separately, the year before the preceding calendar year for certain income-related information.

The bill would make several revisions to what had to be in the personal financial statements, including:

- requiring the identification of any other source of earned or unearned income not reported under another provision, including public benefits, pensions, individual retirement accounts, retirement plans, and the category of the amount of income derived from each source;
- reporting the dollar value, instead of the number of shares, when reporting shares of stock in businesses; and
- the date that financial liabilities greater than $1,000 were incurred.

CSHB 1059 would require electronic filing of personal financial statements filed with the commission. The commission would be required to make the statements available to the public on the commission website within 15 days of being filed or of the filing deadline, whichever was

later.

The commission would not be required to make available statements that currently are eligible to be destroyed after the second anniversary of when an individual ceased to be a state officer. The commission would be prohibited from making available statements that currently must be destroyed due to notification to destroy them from the state officer. The bill would repeal a requirement that the commission note certain information about those who request to see financial statements.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015. It would apply only to financial statements filed on or after January 1, 2017.

SUBJECT: Regulating e-cigarettes and banning their sale to minors

COMMITTEE: Public Health — committee substitute recommended

VOTE: 9 ayes — Crownover, Blanco, Coleman, S. Davis, Guerra, R. Miller, Sheffield, Zedler, Zerwas

0 nays

2 absent — Naishtat, Collier

WITNESSES: For — Josiah Neeley, R Street Institute; Ryan Van Ramshorst, Texas Pediatric Society, Texas Medical Association; Larriann Curtis, Texas PTA; (*Registered, but did not testify*: Marshall Kenderdine, Texas Academy of Family Physicians; Nelson Salinas, Texas Association of Business; Rebekah Schroeder, Texas Children's Hospital; Lon Craft, TMPA; Melody Chatelle, United Ways of Texas; Shannon Kemp; Katharine Ligon)

Against — Andrew Westerkom, Texas E-Cigarette and Vaping Association

On — Gavin Massingill, Altria; Schell Hammel, SFATA; Ernest Hawk, UT MD Anderson Cancer Center; (*Registered, but did not testify*: Kaitlyn Murphy, American Heart Association; Winfred Kang, Comptroller of Public Accounts; Barry Sharp, Department of State Health Services)

BACKGROUND: Health and Safety Code, ch. 161, subch. H regulates the distribution of cigarettes or tobacco products. In addition to other provisions, this subchapter prohibits the sale of cigarettes or tobacco products to persons younger than 18 years old. Chapter 161, subch. H and subch. N prohibit minors from possessing, purchasing, consuming, or accepting cigarettes or tobacco products. The chapter provides penalties for these offenses.

Education Code, sec. 38.006 and Penal Code, sec. 48.01 regulate the use of tobacco products on school property.

State statute does not currently apply all the requirements that apply to cigarettes and tobacco products to e-cigarettes, including requirements concerning the sale or provision of these products to individuals under 18.

DIGEST:

CSHB 170 would apply to e-cigarettes the similar provisions that regulate cigarettes and tobacco products under Health and Safety Code, ch. 161, subch. H, related to distribution of cigarettes or tobacco products. The bill also would apply to e-cigarettes the same provisions that apply to the use of tobacco products on school property under Education Code, sec. 38.006 and Penal Code, sec. 48.01. In addition, the bill would:

- add a definition for "e-cigarette";
- require the Department of State Health Services to create a report on the use of e-cigarettes in the state;
- regulate the sale of liquid containing nicotine; and
- add requirements for delivery sales of e-cigarettes.

Definitions. The bill would define an "e-cigarette" to mean an electronic cigarette or any other device that simulated smoking by using a mechanical heating element, battery, or electronic circuit to deliver nicotine or other substances to the individual inhaling from the device. The term would not include a prescription medical device unrelated to the cessation of smoking. The term would include a device of the aforementioned description regardless of whether the device had another name or description and would include a component, part, or accessory of the device.

Sale of e-cigarettes to minors. The bill would prohibit the sale of e-cigarettes to persons younger than 18 years old under the same statutory provisions that currently apply to cigarettes and tobacco products in Health and Safety Code, ch. 161, subch. H, related to the distribution of cigarettes or tobacco products. As with cigarettes or tobacco products, it would be a class C misdemeanor (maximum fine of $500) for a person, with criminal negligence, to sell, give, or cause to be sold or given an e-cigarette to someone who was younger than 18 years old. The bill also would prohibit a person from selling, giving, or causing to be sold or given an e-cigarette to someone who was younger than 27 years old unless the person to whom the e-cigarette was sold or given presented an

apparently valid proof of identification.

If an offense occurred in connection with a sale by an employee of the owner of a store in which cigarettes or tobacco products were sold at retail, the employee would be criminally responsible for the offense and would be subject to prosecution. It would be a defense to prosecution under the bill that the person to whom the e-cigarette was sold or given presented to the defendant apparently valid proof of identification. It also would be an affirmative defense to prosecution if the defendant was the owner of a store in which e-cigarettes were sold at retail, the offense occurred in connection with a sale by an employee of the owner, and the owner had provided the employee with a working transaction scan device and adequate training in the use of the scan device.

The bill would make it an offense punishable by a fine of up to $250 for an individual younger than 18 years old to:

- possess, purchase, consume, or accept an e-cigarette; or
- falsely represent himself or herself to be 18 years old by displaying false proof of age to obtain possession of, purchase, or receive an e-cigarette.

An individual convicted of this offense would be required to attend an e-cigarette and tobacco awareness program approved by the commissioner. The bill would make an exception to the offense for an individual younger than 18 years old who possessed an e-cigarette in certain circumstances.

E-cigarettes on school property. The bill would apply to e-cigarette provisions in statute that prohibit the use of tobacco products on school property.

Signage. The bill also would apply to e-cigarettes the signage requirements in Health and Safety Code, ch. 161 that apply to the retail or vending machine sale of cigarettes or tobacco products. The comptroller would provide the sign without charge to any person who sold e-cigarettes and to distributors.

Notification of employees. The bill would require retailers of e-cigarettes,

as with retailers of cigarettes or tobacco products, to notify their employees of signage requirements within 72 hours of the date they began retail sales. Retailers also would have to notify employees within 72 hours that state law prohibited the sale of e-cigarettes to persons under 18 years old and that a violation of this law would be a class C misdemeanor (maximum fine of $500). Employees would have to sign a form stating that the law had been fully explained, that they fully understood the law, and that they agreed to comply with the law as a condition of employment.

Direct access to e-cigarettes. A retailer or other person could not permit a customer direct access to e-cigarettes or install or maintain a vending machine for e-cigarettes. Also, a retailer could not redeem or distribute to persons younger than 18 years old a coupon, a free sample, or a discounted e-cigarette.

Block grants and inspections. The comptroller could make block grants to counties and municipalities to be used by local law enforcement agencies to enforce the bill's provisions in a manner that could reasonably be expected to reduce the extent to which e-cigarettes were sold or distributed, including by delivery sale, to persons who were younger than 18 years old. The bill would require random, unannounced inspections to be conducted at various locations where e-cigarettes were sold or distributed, including by delivery sale, to ensure compliance with the provisions of the bill.

Tobacco awareness campaign. The bill would require the tobacco awareness campaign under Health and Safety Code, sec. 161.301(a) to include e-cigarettes in its activities.

Delivery sales. Regulations in Health and Safety Code, ch. 161 that apply to the delivery and shipping of cigarettes also would apply to e-cigarettes. The bill would add new regulations for delivery sale orders of e-cigarettes and would specify that a person taking a delivery sale order of e-cigarettes would have to comply with age verification and other requirements under state law. A person could not mail or ship e-cigarettes in connection with a delivery sale order unless the person verified that the prospective purchaser was at least 18 years old through a commercially available

database. The bill would specify additional acceptable means for a retailer to verify the age of the prospective purchaser. The bill also would require such a delivery to require an adult signature.

A delivery sale of an e-cigarette would have to include a prominent and clearly legible statement that e-cigarette sales to individuals younger than 18 were illegal under state law and are restricted to those who provide verifiable proof of age. The bill would require a delivery sale order of e-cigarettes to include an additional clear, conspicuous statement provided in the bill.

A person who had made a delivery sale or shipped or delivered e-cigarettes would be exempt from the requirement to file a memorandum or copy of an invoice with the comptroller if the person had not violated Health and Safety Code, ch. 161, subch. H for two years preceding the date of the report and if they had not been reported by the comptroller as having violated subch. H. The bill would require a person who had not yet submitted such a memorandum of invoice copy to submit this record to the comptroller for each delivery sale of a cigarette or e-cigarette in the previous two years. A person would have to maintain records of compliance for four years from the date the record was prepared.

Report. The bill would require the Department of State Health Services to report to the governor, lieutenant governor, and speaker of the House by January 5 of each odd-numbered year on the status of the use of e-cigarettes in the state. The report would include components specified in the bill.

Regulating the sale of liquid containing nicotine. The bill would prohibit a person from selling or causing to be sold a container that contained liquid with nicotine and that was an accessory for an e-cigarette unless:

- the container satisfied federal child-resistant effectiveness standards; or
- the container was a prefilled cartridge sealed by the manufacturer and was not intended to be opened by a consumer.

The bill would apply to an offense committed on or after October 1, 2015. The comptroller would develop the sign for a retailer or distributor to display per the bill and make the sign available to the public by September 15, 2015. The other provisions of the bill would take effect October 1, 2015.

SUBJECT: Notice before housing sexually violent predators at a new location

COMMITTEE: Corrections — committee substitute recommended

VOTE: 6 ayes — Murphy, J. White, Keough, Krause, Schubert, Tinderholt

0 nays

1 absent — Allen

WITNESSES: For — (*Registered, but did not testify*: Lance Lowry, American Federation of State County Municipal Employees - Texas Correctional Employees - Huntsville)

Against — None

On — (*Registered, but did not testify*: Jessica Marsh and Marsha Mclane, Office of Violent Sex Offender Management)

BACKGROUND: Under Health and Safety Code, ch. 841, certain repeat sex offenders and other offenders, including those convicted of murder, whose crimes were sexually motivated and who are released from prison or a state mental health facility can be committed through the civil courts to outpatient treatment and supervision. Treatment and supervision of those determined to be "sexually violent predators" are coordinated by the state's Office of Violent Sex Offender Management (OVSOM).Once committed, individuals can be kept under supervision until a court determines they no longer meet that standard. Under the statute, the judge must require persons under civil commitment to live in a Texas facility under contract with the OVSOM or at another location approved by the office.

In spring 2014, the OVSOM attempted to relocate offenders to Houston and Austin neighborhoods without notifying local or elected officials or the public directly. A local community opposed a plan to build housing for the program in Liberty County.

DIGEST: CSHB 678 would require the Office of Violent Sex Offender Management

(OVSOM) to provide advance notice to certain legislators if it intended to house one or more individuals under the state's civil commitment program at a new residence or facility that had not previously been used to house those in the program.

The bill also would require vendors to provide advance notice to certain legislators of intent to submit a proposal to the OVSOM for the construction or renovation of a residence or facility that would serve as a new location for those in the civil commitment program.

The notice by the OVSOM and vendors would have to be in writing to each member of the Legislature who represented a district containing territory in the affected counties.

The OVSOM would have to give notice as soon as practicable after awarding a contract for the construction or renovation of a residence or facility. If construction or renovation was unnecessary, the notice would have to be given at least 30 days before the residence or facility would first be used to house individuals in the civil commitment program. As an exception, OVSOM could provide notice at least 72 hours before transferring an individual if the transfer was necessary because of a medical emergency, a serious behavioral or health and safety issue, or release from a secure correctional facility.

Vendors would have to give notice at least 30 days before they submitted a proposal.

The bill would take effect September 1, 2015.

SUBJECT: Requiring occupational specialty codes on job opening notices

COMMITTEE: Defense and Veterans' Affairs — committee substitute recommended

VOTE: 5 ayes — S. King, Aycock, Blanco, Farias, Shaheen

2 nays — Frank, Schaefer

WITNESSES: For — Jim Brennan, Texas Coalition of Veterans Organizations; (*Registered, but did not testify*: Morgan Little and John A Miterko, Texas Coalition of Veterans Organizations)

Against — None

On — Randy Nesbitt, Texas Department of Licensing and Regulation; Stan Kurtz, Texas Veterans Commission

BACKGROUND: Under Government Code, sec. 654.036, the general duties of a classification officer include:

- maintaining and keeping current the position classification plan;
- advising and assisting state agencies in equitably and uniformly applying the plan;
- conducting classification compliance audits; and
- making recommendations that the officer finds necessary for the operation of the plan or its improvement.

The Texas Workforce Commission serves as a central processing agency for certain job openings and placements with the state to increase employment opportunities for veterans.

DIGEST: CSHB 1340 would establish certain requirements related to the identification and use of occupational specialty codes. The bill would define occupational specialty code as a code, classification, designator, or rating used by a branch of the U.S. armed forces to identify a specific job. The term would include a military occupational specialty code, an air force specialty code, a navy enlisted classification system, or a similar

coding or classification system.

The bill would require the classification officer, each state fiscal biennium, to research and identify applicable occupational specialty codes that corresponded to each position in the state's position classification plan. The officer would be required to report the findings to the governor's budget office and the Legislative Budget Board by October 1 preceding each regular session of the Legislature.

The classification officer could request the assistance of the Texas Veterans Commission, and the commission would be required to assist the officer in researching the codes and reporting the findings.

CSHB 1340 also would require that all forms and notices related to a state agency job opening include the occupational specialty codes that corresponded to the job opening if the duties of the available position correlated with an occupational specialty assigned to that code. The Texas Workforce Commission would have to include space on job information forms for an agency to list an occupational specialty code on the form.

The bill would take effect September 1, 2015, and would apply only to a form or notice for a job opening that was published or delivered on or after that date.

SUBJECT: Creating the Transportation Safety and Access Advisory Committee

COMMITTEE: Transportation — favorable, without amendment

VOTE: 9 ayes — Pickett, Martinez, Y. Davis, Fletcher, Israel, McClendon, Murr, Paddie, Phillips

3 nays — Burkett, Harless, Simmons

WITNESSES: For — (*Registered, but did not testify*: Carla Penny, AARP; Heiwa Salovitz and David Wittie, ADAPT of Texas; Robin Stallings, BikeTexas; Chase Bearden, Coalition of Texans with Disabilities; Eileen Garcia, Texans Care for Children)

Against — None

On — (*Registered, but did not testify*: Ginger Goodin and Joan Hudson, Texas A&M Transportation Institute; John Villanacci, Texas Department of State Health Services; Kelle Martin, Texas State Independent Living Council; Eric Gleason, TxDOT)

BACKGROUND: A number of advisory committees inform and provide feedback to the Texas Department of Transportation (TxDOT). Topics of these advisory committees include aviation, public transit, and freight mobility.

Some have suggested that the number of motor vehicles on Texas roads that hit and kill pedestrians and cyclists indicates that the safety of Texas' transportation system for pedestrians and cyclists is under-examined.

DIGEST: HB 1136 would create the Transportation Safety and Access Advisory Committee (TSAC). It would study and advise TxDOT on methods, including infrastructure additions such as sidewalks and bicycle lanes, that the department could use to improve the safety and access of all users of state-funded and federally funded transportation projects.

Each of the following groups would appoint one member to TSAC:

- AARP;
- the Texas chapter of the American Planning Association;
- the Texas chapter of the American Society of Landscape Architects;
- the Association of Texas Metropolitan Planning Organizations;
- TxDOT;
- the Department of Aging and Disability Services;
- the Department of State Health Services;
- an organization selected by TxDOT to represent cyclists;
- an organization selected by TxDOT to represent persons with disabilities;
- the Texas Association of Counties; and
- the Texas Municipal League.

TSAC would be required to create and submit a report to TxDOT by September 1, 2016. The committee would be abolished and the statute would expire January 1, 2017.

HB 1136 would take effect September 1, 2015.

SUBJECT: Relief against discrimination related to a worker's compensation claim

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 6 ayes — Oliveira, Simmons, Collier, Fletcher, Romero, Villalba

1 nay — Rinaldi

WITNESSES: For — Chris Jones, Combined Law Enforcement Associations of Texas (CLEAT); Martha Owen, Texas American Federation of Teachers; Jason Smith, Texas Employment Lawyers Association; Fabiola Flores, Texas Worker Advocates; (*Registered, but did not testify*: Joe Hamill, American Federation of State, County and Municipal Employees; Kate Kuhlmann, Association of Texas Professional Educators; Leonard Aguilar, Southwest Pipe Trades Association; Rick Levy, Texas AFL-CIO; Ted Melina Raab, Texas American Federation of Teachers; Michael Cunningham, Texas Building and Construction Trades Council; Paige Williams, Texas Classroom Teachers Association; Patricia Kolodzey, Texas Medical Association; Vicki Truitt, Texas Municipal Police Association; Harrison Hiner, Texas State Employees Union; Deborah Ingersoll, Texas State Troopers Association; Maxie Gallardo, Workers Defense Project; Heather Ross)

Against — (*Registered, but did not testify*: Eddie Solis, City of Arlington; Pat Carlson)

BACKGROUND: Labor Code, sec. 451.001 prohibits discrimination against an employee for filing a worker's compensation claim or other related activities related to a worker's compensation claim.

Government Code, ch. 554 offers protection to public employees for reporting violations of law.

Civil Practice and Remedies Code, sec. 101.023 provides limits on liability for the state government, units of local government, municipalities, and emergency service organizations.

DIGEST:

HB 1390 would allow a public employee who alleged a violation of discrimination related to a worker's compensation claim to sue the state or local governmental entity for relief. The bill would waive and abolish sovereign and governmental immunity to the extent of liability for the relief allowed, which is defined as reasonable damages under Labor Code, sec. 451.002.

The bill also would specify that the amount of damages awarded would be subject to limitations defined in Civil Practice Code, ch. 101.023 and would specify that a public employee could not recover exemplary damages.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015, and would apply only to a cause of action filed or pending on or after that date, regardless of when the cause of action accrued.

SUBJECT: Limiting denial of supplemental nutrition assistance program benefits

COMMITTEE: Human Services — favorable, without amendment

VOTE: 6 ayes — Raymond, Rose, Keough, Naishtat, Peña, Price

1 nay — S. King

2 absent — Klick, Spitzer

WITNESSES: For —Lauren Johnson; Rachel Cooper, Center for Public Policy Priorities; Kathryn Freeman, Christian Life Commission; JC Dwyer, Feeding Texas; Douglas Smith, Texas Criminal Justice Coalition; (*Registered, but did not testify*: Cynthia Humphrey, Association of Substance Abuse Programs; Kathy Green, Capital Area Food Bank of Texas, Feeding Texas; Jason Sabo, Children at Risk; Robin Peyson, Communities for Recovery; Celia Cole, Feeding Texas; Cate Graziani, Mental Health America of Texas; Laura Austin and Greg Hansch, National Alliance on Mental Illness (NAMI) Texas; Lauren Dimitry, Texans Care for Children; Bee Moorhead, Texas Impact; Lisa Millner)

Against — (*Registered, but did not testify*: Colleen Vera)

On — (*Registered, but did not testify*: Stephanie Stephens, Health and Human Services Commission)

BACKGROUND: 21 U.S.C. sec. 862 governs eligibility for assistance programs such as the Supplemental Nutrition Assistance Program (SNAP) for individuals convicted of a felony and provides for certain flexibility at the state level in how eligibility is determined.

Programs such as SNAP are considered important to an overall strategy that promotes stable employment for those with past felony convictions. Some suggest allowing those with drug-related convictions to receive SNAP benefits can help them achieve economic stability, especially during transitions such as employment and training programs.

DIGEST:

HB 1267 would limit the applicability of certain federal laws in determining the eligibility of a person convicted of a felony for the Supplemental Nutrition Assistance Program (SNAP). The bill would specify that a person convicted of a felony that had as an element the possession, use, or distribution of a controlled substance would be denied SNAP benefits only for a two-year period beginning on the date the person was convicted.

The bill would allow a state agency to delay implementation of any provision of the bill pending the request and approval of a necessary waiver or authorization from a federal agency.

The bill would take effect on September 1, 2015, and would apply only to an eligibility determination of a person for SNAP benefits made on or after that date.

SUBJECT: Lowering the minimum acreage of qualified open-space land to raise bees

COMMITTEE: Agriculture and Livestock — committee substitute recommended

VOTE: 7 ayes — T. King, C. Anderson, Cyrier, González, Rinaldi, Simpson, Springer

0 nays

WITNESSES: For — Jay Crossley, Houston Food Policy Workgroup; Scott Norman, Texas Association of Builders; Jerry Seay; (*Registered, but did not testify*: Gib Lewis, Exotic Wildlife Association; Steven Garza and Daniel Gonzalez, Texas Association of Realtors)

Against — (*Registered, but did not testify*: Donna Warndof, Harris County; Conrad John, Travis County Commissioners Court)

On — Judith McGeary, Farm and Ranch Freedom Alliance

BACKGROUND: For purposes of appraising agricultural land, Tax Code, sec. 23.51 defines "qualified open-space land" as land currently devoted principally to agricultural use to the degree of intensity generally accepted in the area and that has been devoted principally to agricultural use for five of the previous seven years.

"Agricultural use" includes several activities, including the use of land to raise or keep bees for pollination or for the production of human food or other products having a commercial value, provided that the land used is not less than five or more than 20 acres.

DIGEST: CSHB 1513 would amend Tax Code, sec. 23.51 by lowering the minimum acreage of land used to raise or keep bees that could be eligible for appraisal as qualified open-space land from five acres to two acres.

The bill would take effect January 1, 2016, and would apply only to the appraisal of land for a tax year that began on or after that date.

SUBJECT: Requirements for expert reports for health care liability claims

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Smithee, Farrar, Clardy, Hernandez, Laubenberg, Raymond, Schofield, Sheets, S. Thompson

0 nays

WITNESSES: For — Mike Hull, Texans for Lawsuit Reform; Andrew Cates, Texas Nurses Association; (*Registered, but did not testify*: John Hubbard and Ian Randolph, Coalition for Nurses in Advanced Practice (CNAP); Carol Sims, Texas Civil Justice League; Gavin Gadberry, Texas Health Care Association; Dan Finch, Texas Medical Association)

Against: — Jay Harvey, Texas Trial Lawyers Association

BACKGROUND: Civil Practice and Remedies Code, sec. 74.001 defines "health care liability claim" to mean a cause of action against a health care provider or physician for treatment, lack of treatment, or other claimed departure from accepted standards of medical care, health care, safety, professional, or administrative services directly related to health care, which proximately results in injury to or death of a claimant, whether the claimant's claim or cause of action sounds in tort or contract.

In the case *Texas West Oaks Hospital, LP v. Williams*, 371 S.W.3d 171 (Tex. 2012), the Texas Supreme Court ruled that a claim by an employee of a private mental health hospital who was injured in an altercation with a patient with a history of violent outbursts was a health care liability claim under the Texas Medical Liability Act (TMLA). The court dismissed the claimant's suit on the grounds that he did not serve the defendant with an expert report, as required for health care liability claims under Civil Practice and Remedies Code, ch. 74.

Under Labor Code, sec. 406.033, employees who are not covered by workers' compensation insurance may file claims against employers to recover damages for personal injury or death that are sustained in the

course and scope of employment. Sec. 408.001 allows employees' surviving spouses or heirs to seek exemplary damages for those claims if the employee's death was caused by an intentional act or omission or gross negligence of the employer.

DIGEST:

CSHB 1403 would exclude actions filed under the Texas Workers' Compensation Act (TWCA) by employees who were not covered by workers' compensation insurance for damages and exemplary damages for personal injury or death that occurred in the course and scope of employment from the definition of a "health care liability claim" under the Texas Medical Liability Act, Civil Practice and Remedies Code, ch. 74.

Under the bill, the expert reports served on each defendant in a health care liability claim would be required to address at least one theory of direct liability asserted against each physician or health care provider against whom a theory of direct liability was asserted.

This bill would take effect September 1, 2015, and would apply only to causes of action that accrued on or after that date.

SUBJECT: Specifying subcontractor status for workers' compensation

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 5 ayes — Oliveira, Simmons, Fletcher, Rinaldi, Villalba

2 nays — Collier, Romero

WITNESSES: For — George Christian, Texas Civil Justice League; (*Registered, but did not testify*: Michael Chatron, AGC Texas Building Branch; Jon Fisher, Associated Builders and Contractors of Texas; Tom Sellers, ConocoPhillips; Matt Long, Fredericksburg Tea Party; Jim Sewell, Gallagher Construction Services; Mike Meroney, Huntsman Corp., and Sherwin Alumina, Co.; Lee Loftis, Independent Insurance Agents of Texas; Bill Oswald, Koch Companies; Lee Ann Alexander, Liberty Mutual Insurance; David Holt, Permian Basin Petroleum Association; Bill Stevens, Texas Alliance of Energy Producers; Scott Norman, Texas Association of Builders; Cathy Dewitt, Texas Association of Business; Hector Rivero, Texas Chemical Council; Lisa Kaufman, Texas Civil Justice League; Michael White, Texas Construction Association; Lindsey Miller, Texas Independent Producers and Royalty Owners Association; Shannon Rusing, Texas Oil and Gas Association; Tricia Davis, Texas Royalty Council; Perry Fowler, Texas Water Infrastructure Network; Jack Baxley, Texo the Construction Association; John W. Fainter Jr., The Association of Electric Companies of Texas, Inc.; Daniel Womack, The Dow Chemical Company; Stephanie Simpson, Texas Association of Manufacturers; Julie Klumpyan, Valero; Tara Snowden, Zachry Corporation; Dawn Buckingham; Angela Smith)

Against — Nelson Roach, Texas Trial Lawyers Association; (*Registered, but did not testify*: Celina Moreno, MALDEF; Leonard Aguilar, Southwest Pipes Trades Association; Rick Levy, Texas AFL-CIO; Michael Cunningham, Texas Building and Construction Trades Council; Ware Wendell, Texas Watch; Maxie Gallardo, Workers Defense Project)

On — (*Registered, but did not testify*: Brent Hatch, Texas Department of Insurance, Division of Workers' Compensation)

BACKGROUND:

Labor Code, sec. 406.122(b) provides that a subcontractor and its employees are not considered employees of a general contractor if the subcontractor:

- is operating as an independent contractor; and
- has entered into a written agreement with the general contractor under which the subcontractor has assumed the responsibilities of and is acting as an employer for the performance of work.

Under sec. 406.123, a general contractor may agree in writing to provide worker's compensation insurance to a subcontractor and its employees. In that case, the general contractor is the employer of the subcontractor and its employees only for purposes of workers' compensation laws. A Texas Court of Appeals ruling in *TIC Energy and Chemical, Inc. v. Martin*, noted in January 2015 that these two provisions irreconcilably conflict.

DIGEST:

HB 1668 would specify an exception to the general rule under current law that a subcontractor and its employees were not employees of the general contractor, which would apply if the subcontractor was operating as an independent contractor and an employer for the performance of work under a written agreement with the general contractor for the provision of workers' compensation insurance.

The bill would take effect September 1, 2015, and would apply to a written agreement entered into on or after that date.

SUBJECT: Possession and removal of a placenta from a hospital or birthing center

COMMITTEE: Public Health — committee substitute recommended

VOTE: 11 ayes — Crownover, Naishtat, Blanco, Coleman, Collier, S. Davis, Guerra, D. Miller, Sheffield, Zedler, Zerwas

0 nays

WITNESSES: For — Susan Hays, NARAL ProChoice Texas; Lisa Kestler; Liane Macpherson; Melissa Mathis; (*Registered, but did not testify*: Aaron Hines and Anna Hines, #PassThePlacenta; Ian Randolph, Coalition for Nurses in Advanced Practice; Kathy Hutto, Consortium of Texas Certified Nurse Midwives; Eileen Garcia, Texans Care for Children; Jennifer Banda, Texas Hospital Association; and 15 individuals)

Against — None

On — (*Registered, but did not testify*: Allison Hughes, Department of State Health Services)

BACKGROUND: Health and Safety Code, sec. 81.090 requires a physician to submit a sample of a woman's blood during gestation or at delivery of an infant to an appropriately certified laboratory for diagnostic testing approved by the U.S. Food and Drug Administration for syphilis, HIV infection, and hepatitis B infection.

Health and Safety Code, ch. 244 regulates birthing centers, and Health and Safety Code, ch. 241 governs regulation of hospitals in the state.

Certain Texas hospitals have developed procedures to allow mothers, after they give birth, to remove the placenta from the hospital when they are discharged, but some hospitals prohibit this activity. Some have called for all hospitals to allow a postpartum mother to have the right to remove her placenta from the hospital or birthing center for personal or religious use.

DIGEST: CSHB 1670 would allow a woman who had given birth in a hospital or

birthing center, or a spouse of the woman if the woman was incapacitated or deceased, to take possession of and remove from the facility the delivered placenta without a court order, if:

- the woman tested negative for infectious diseases as evidenced by the results of diagnostic testing required under Health and Safety Code, sec. 81.090; and
- the person taking possession of the placenta signed a form prescribed by the Department of State Health Services acknowledging that the person had received educational information prescribed by the department about the spread of blood-borne diseases from placentas, the danger of ingesting formalin, and the proper handling of placentas, and that the placenta was for personal use.

The Department of State Health Services would retain the signed form with the woman's medical records. The department also would post the blank form and educational information about placentas to be provided to a woman on the department's website.

Under the bill, a person taking a placenta from a hospital or birthing center could keep the placenta only for personal use and could not sell the placenta. The bill would not prohibit a pathological examination of the delivered placenta that was ordered by a physician or required by a policy of the hospital or birthing center. The bill would not authorize a woman or her spouse to interfere with the pathological examination.

A hospital or birthing center that allowed a person to take possession of and remove from the facility a delivered placenta in compliance with the provisions of the bill would not be required to dispose of the placenta as medical waste and would not be liable for acts under the provisions of the bill in a civil action, a criminal prosecution, or an administrative proceeding.

The bill would direct the executive commissioner of the Health and Human Services Commission to adopt the rules necessary to implement the provisions of the bill by December 1, 2015. A hospital or birthing facility would not be required to comply with the provisions of the bill

until January 1, 2016.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUBJECT: Criminal, civil penalties relating to abusable synthetic substances

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 4 ayes — Herrero, Leach, Shaheen, Simpson

0 nays

3 absent — Moody, Canales, Hunter

WITNESSES: For — Azell Carter, Pasadena Police Department Regional Crime Laboratory; William Travis, Sheriffs' Association of Texas; (*Registered, but did not testify*: Eddie Solis, City of Arlington; Jennifer Tharp, Comal County Criminal District Attorney; Justin Wood, Harris County District Attorney's Office; Jessica Anderson, Houston Police Department; Tiana Sanford, Montgomery County District Attorney's Office; Larry Smith, Maxey Cerliano, Micah Harmon, and A.J. Louderback, Sheriffs' Association of Texas; Donald Baker, Texas Police Chiefs Association; James Grunden, and Bobby Sanders, Upshur County Sheriff's Office; Anna Bowers; James Capra; R. Glenn Smith; Destiny Young)

Against — None

On — Aaron Crowell, Texas Municipal Police Association; (*Registered, but did not testify*: Robert Bailey and Corwin Schalchlin, Texas Department of Public Safety)

BACKGROUND: Health and Safety Code, title 6, subtitle C governs substance abuse regulation and crimes. Ch. 485 covers abusable volatile chemicals and contains several offenses, including ones relating to use and possession of the chemicals and delivering them to a minor.

DIGEST: CSHB 1955 would create criminal and civil penalties for knowingly producing, distributing, selling, or offering to sell a mislabeled abusable synthetic substance.

An abusable synthetic substance would be defined to mean one that:

- was not otherwise regulated under Title 6 of the Health and Safety Code or federal law;
- was intended to mimic a controlled substance or controlled substance analogue; and
- when inhaled, ingested, or otherwise introduced in the body produced effects of intoxication and other changes to the body similar to those produced by a controlled substance or controlled substance analogue.

An offense would be a class C misdemeanor (maximum fine of $500). An offense would be a class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000) if an individual had been previously convicted of an offense under CSHB 1955 or convicted under Penal Code provisions that prohibit selling an adulterated or mislabeled commodity and the adulterated or mislabeled commodity was an abusable synthetic substance.

The attorney general or a district, county, or city attorney could institute an action in district court to collect a civil penalty from someone who in the course of business produced, distributed, sold, or offered for sale a mislabeled abusable synthetic substance. A civil penalty could not exceed $25,000 a day for each offense. Each day an offense was committed would constitute a separate violation.

In determining the penalty, courts would have to consider the person's history of previous offenses relating to the sale of mislabeled abusable synthetic substances, the seriousness of the offense, whether the offense presented any hazard to the public health and safety, and demonstrations of good faith by the person charged. Venue for a civil suit would be in the city or county of the offense or in Travis County.

It would be an affirmative defense to both criminal prosecution and civil liability that the abusable synthetic substance was approved for use, sale, or distribution by the U.S. Food and Drug Administration or other state or federal regulatory agency with authority to approve such acts and that the substance was lawfully produced, distributed, sold, or offered for sale. The fact that the abusable synthetic substance was in packaging labeled

"Not for Human Consumption" or similar wording would not be a defense.

The bill would take effect September 1, 2015.

SUBJECT: Increasing the size of the physician assistant board

COMMITTEE: Public Health — favorable, without amendment

VOTE: 10 ayes — Crownover, Naishtat, Blanco, Coleman, S. Davis, Guerra, R. Miller, Sheffield, Zedler, Zerwas

0 nays

1 absent — Collier

WITNESSES: For — Laurie Benton, Texas Academy of Physician Assistants; (*Registered, but did not testify*: Dan Finch, Texas Medical Association)

Against — None

On — (*Registered, but did not testify*: Mari Robinson, Texas Medical Board; Texas Physician Assistant Board)

BACKGROUND: Licensed physician assistants currently are regulated by the Texas Physician Assistant Board (Occupations Code, ch. 204). The board approves applicants for licensure and holds disciplinary proceedings. Some observers note that recent growth in the number of licensed physician assistants in Texas has caused the workload of the board to increase.

DIGEST: HB 2081 would increase the number of members on the physician assistant board from nine to 13 members, all appointed by the governor. The board members would continue to serve staggered six-year terms, with the terms of four or five members, as applicable, expiring on February 1 of each odd-numbered year.

By November 1, 2015, the governor would appoint the four new members as follows — one member for a term expiring February 1, 2017, one for a term expiring February 1, 2019, and two for terms expiring February 1, 2021.

The bill also would change the composition of the board to require seven practicing physician assistant members as compared to the three that currently are required. The governor would designate a physician assistant member as the presiding officer.

The bill would take effect September 1, 2015.

SUBJECT: Adding to non-physician mental health professional definition

COMMITTEE: Human Services — committee substitute recommended

VOTE: 7 ayes — Raymond, Rose, Keough, Klick, Naishtat, Peña, Price

1 nay — Spitzer

1 absent — S. King

WITNESSES: For — Catherine Judd, Texas Academy of Physician Assistants; Danette Castle, Texas Council of Community Centers; Mary Hennigan, Texas Occupational Therapy Association; Constance Daby; Claudette Fette; Sandra Whisner; (*Registered, but did not testify*: Hillary Clearman; Robin Clearman; Richard Ericksen; Michael Gutierrez; Betti Toone)

Against — Carol Grothues, Texas Psychological Association; (*Registered, but did not testify*: Jan Friese, Texas Counseling Association; David White, Texas Psychological Association)

On — Kerry Raymond, Department of State Health Services

BACKGROUND: Health and Safety Code, sec. 571.003(15) defines non-physician mental health professional to include certain psychologists, registered nurses, clinical social workers, professional counselors, and marriage or family therapists. Occupations Code, sec. 454.006 describes the practice of occupational therapy.

Licensed occupational therapists offer services that may help those who suffer from mental illness and other conditions, and some believe they can play role in addressing the mental health professional shortage in the state.

DIGEST: CSHB 1998 would add occupational therapists licensed to practice in Texas to the definition of a non-physician mental health professional. The bill would not authorize an occupational therapist to perform diagnosis or psychological services of the type typically performed by a licensed psychologist.

The bill would take effect September 1, 2015.

SUBJECT: Limiting liability of a trustee that directs powers to third parties

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 4 ayes — Oliveira, Fletcher, Rinaldi, Romero

1 nay — Collier

2 absent — Simmons, Villalba

WITNESSES: For — Dave Folz, Texas Bankers Association; (*Registered, but did not testify*: Jack Roberts, Bank of America; Karen Neeley, Independent Bankers Association of Texas; David Emerick, JPMorgan Chase; Celeste Embrey and Janice Torgeson, Texas Bankers Association)

Against — Jeffrey Myers; (*Registered, but did not testify*: Kristi Elsom; Craig Hopper)

BACKGROUND: Property Code, sec. 114.003 regulates a trustee or other person's power to direct certain actions related to the management of a trust to another party. A holder of a power to direct is liable for any loss that results from a breach of their fiduciary duty.

Some trusts authorize the trustee to delegate certain responsibilities, such as investment decisions, to third parties. Current law holds a trustee liable for the decisions of these third parties.

DIGEST: HB 3190 would limit the liability of a trustee in cases where the trustee had directed certain powers to a third-party advisor. A person would be considered an advisor and a fiduciary, unless the terms of the trust provided otherwise, if he or she had the authority under the terms of the trust to direct, consent to, or disapprove a trustee's actual or proposed decisions, including investment decisions. An "investment decision" would mean a transaction affecting the ownership of, rights in, or value of the investment. A protector would be considered an advisor.

Unless the terms of a trust provided otherwise, a trustee required to act

with an advisor when making decisions, including investment decisions, would not have the duty to:

- monitor the conduct of the advisor;
- provide advice to the advisor or consult with the advisor; or
- inform any beneficiary or third party concerning instances in which the trustee would have acted differently from the manner directed by the advisor.

The bill would specify that a trustee following the direction of an advisor would not be liable for any loss resulting from that direction, unless the trustee acted with wilful misconduct.

A trustee that was required by the terms of a trust to make decisions with the consent of an advisor would not be liable for any loss that resulted from the advisor's failure to give consent after the trustee requested it. An exception would apply to a trustee that acted with wilful misconduct or gross negligence.

The bill would create a presumption that the actions of a trustee related to matters within the scope of the advisor's authority were administrative actions taken by the trustee unless there was clear and convincing evidence to the contrary. Administrative actions would not be considered an undertaking by the trustee to monitor the advisor or otherwise participate in actions within the scope of the advisor's authority.

The bill would repeal Property Code, sec. 114.003 to conform to the changes noted above.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUBJECT: Raising allowed value of a home used as a prize at a charitable raffle

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 8 ayes — Smith, Gutierrez, Geren, Goldman, Guillen, Kuempel, D. Miller, S. Thompson

0 nays

1 absent — Miles

WITNESSES: For — Pat Bivin, Ronald McDonald House of San Antonio; (*Registered, but did not testify*: John R. Pitts, Big Brothers Big Sisters; James Castro, St. PJ's Children's Home; Jill Martin)

Against — None

BACKGROUND: Occupations Code, sec. 2002.056 allows a qualified nonprofit organization to conduct raffles to raise funds, including raffles offering residential dwellings as the prize. The value of any residential dwelling prize that is purchased by the organization or for which the organization provides any consideration may not exceed $250,000.

There is no limit on the maximum value of real estate that can be donated for raffle purposes, and some have called for the cap on the maximum value of real estate offered for raffle purposes to be raised.

DIGEST: CSHB 3093 would raise the maximum value of a residential dwelling that could be offered or awarded as a raffle prize that was purchased by a qualified nonprofit organization or for which the organization provided any consideration from $250,000 to $2 million.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUBJECT: Establishing school-based savings programs for student savings accounts

COMMITTEE: Public Education — committee substitute recommended

VOTE: 11 ayes — Aycock, Allen, Bohac, Deshotel, Dutton, Farney, Galindo, González, Huberty, K. King, VanDeaver

0 nays

WITNESSES: For — Laura Rosen, Center for Public Policy Priorities; Stephen Scurlock, Independent Bankers Association of Texas; Woody Widrow, RAISE Texas; Stephanie Mace, United Way of Metropolitan Dallas; (*Registered, but did not testify*: Drew Scheberle, Greater Austin Chamber of Commerce; Carol Fletcher, Pflugerville ISD; Lauren Dimitry, Texans Care for Children; Ted Melina Raab, Texas American Federation of Teachers; Ann Baddour, Texas Appleseed; Nelson Salinas, Texas Association of Business; Jeff Huffman, Texas Credit Union Association; Grover Campbell, Texas Association of School Boards; Casey Smith, United Ways of Texas)

Against — None

On — (*Registered, but did not testify*: Gina Perez, Health and Human Services Commission; Monica Martinez, Texas Education Agency)

BACKGROUND: Education Code, sec. 28.0021 requires schools to administer a course on personal financial literacy, including instruction in methods of paying for college and other postsecondary education and training.

According to the comptroller's office, student loan debt has increased at a rate far outpacing inflation. Some studies have shown that when young people maintain savings accounts, they are more likely to save in the future, which may help students save for college to reduce the trend of increasing loan debt and encourage postsecondary education attainment.

DIGEST: CSHB 3987 would allow school districts and open-enrollment charter schools to establish school-based savings programs to offer in conjunction

with the required personal finance literacy courses.

The bill would require school districts or schools that elected to implement a savings program to partner with appropriate institutions able to offer certain savings accounts or instruments, as well as institutions such as public sector entities, private businesses, nonprofit organizations, or philanthropic organizations in the community. These partners would be able to provide a structure for the management of these programs or provide incentives to encourage students and their families to contribute to the accounts, including matching funds or seed funding.

Through these partnerships, the programs offered could promote:

- general savings, through a partner institution offering savings accounts or certificates of deposit; or
- savings dedicated for higher education, through a partner institution offering certain savings accounts or instruments, such as a Section 529 account, a Coverdell education savings account, or a Series I savings bond.

For students who elected to have a savings account or bond dedicated to higher education through a school-based savings program, the bill would exempt the funds set aside from counting as assets when determining a student's state-funded financial aid eligibility or a student's eligibility for certain state financial, medical, or nutritional assistance programs. The amount of funds exempted from counting toward program eligibility would be capped at the cost of one year of undergraduate education earning 30 semester credit hours at the general academic institution charging the highest tuition in the most recent academic year.

If a state agency determined that a waiver or authorization from a federal agency was required to implement a certain provision of the bill, the agency affected would be required to request the waiver or authorization and could delay implementation of that provision until the waiver or authorization was granted.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take

effect September 1, 2015.

SUBJECT: Expanding donation conditions for surplus or salvage property

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 10 ayes — Cook, Giddings, Craddick, Farrar, Geren, Harless, Huberty, Kuempel, Smithee, Sylvester Turner

0 nays

2 absent — Farney, Oliveira

WITNESSES: For — (*Registered, but did not testify*: Randall Chapman)

Against — None

On — (*Registered, but did not testify*: Shyra Darr, Kristy Fierro, and Kay Molina, Texas Facilities Commission)

BACKGROUND: Government Code, ch. 2175, subch. D governs the disposal of surplus or salvage property by a state agency. Sec. 2175.241 permits the Texas Facilities Commission or a state agency to destroy or donate property that has no resale value and cannot be disposed of or sold. Sec. 2175.242 permits the comptroller to remove donated or destroyed surplus or salvage property from the state property accounting records.

Other qualified organizations that work closely with state agencies may have a use for the property currently donated or destroyed, and some have called for a process by which the Texas Facilities Commission could donate the property to certain organizations that may provide a benefit to the state, such as law enforcement agencies or organizations that provide health services.

DIGEST: HB 3439 would expand the conditions under which the Texas Facilities Commission could donate surplus or salvage property. If the commission determined the donation of the property would sufficiently benefit the state, the commission could donate the property to an assistance organization or a local government entity.

The commission would be permitted to charge a fee to the organization or governmental entity receiving the donation to cover associated costs for the donation.

A state agency could donate property that could be resold if the agency notified the commission and provided sufficient information for the commission to confirm the benefit to the state.

A state agency making a donation would be required to notify the comptroller of the donation and any benefit received. This bill would not require the commission's authorization for property donated by a state agency to be deleted from state property accounting records.

This bill would take effect September 1, 2015.

SUBJECT: Temporary detention of a person with mental illness

COMMITTEE: Public Health — committee substitute recommended

VOTE: 10 ayes — Crownover, Naishtat, Blanco, Coleman, S. Davis, Guerra, R. Miller, Sheffield, Zedler, Zerwas

0 nays

1 absent — Collier

WITNESSES: For — Greg Hansch, National Alliance on Mental Illness Texas; Lee Johnson, Texas Council of Community Centers; Robert Greenberg, Texas Medical Association, Texas College of Emergency Physicians, Federation of Texas Psychiatrists; Charlzetta McMurray-Horton, THA; (*Registered, but did not testify*: Donald Baker, Austin Police Association; Frank Dixon, Austin Police Department; Jim Allison, County Judges and Commissioners Association of Texas; John McGee, ER Centers of America, Inc.; Sandy Ward and Angela Smith, Fredericksburg Tea Party; Tim Schauer, Harris County Healthcare Alliance; Neftali Partida, Houston Methodist Hospital System; Coby Chase, Meadows Mental Health Policy Institute; AJ Louderback, Sheriffs' Association of Texas; Richard Glancey, Tenet Healthcare; Brad Shields, Texas Association of Freestanding Emergency Centers; Dudley Wait, Texas EMS Alliance; Stacy Wilson, Texas Hospital Association; Don McBeath, Texas Organization of Rural and Community Hospitals; Andrew Smith, University Health System; and five individuals)

Against — Lee Spiller, Citizens Commission on Human Rights; Robert Crosley; (*Registered, but did not testify*: Judy Powell, Parent Guidance Centers; and 19 individuals.)

On — (*Registered, but did not testify*: Kerry Raymond, Department of State Health Services)

BACKGROUND: Health and Safety Code, ch. 573 establishes the authority of a peace officer to apprehend a person for emergency detention and the authority of

certain facilities to temporarily detain a person with mental illness.

Some have said that certain health care facilities are not authorized to hold a person who initially voluntarily requests services and who subsequently seeks to leave the facility, even if there is substantial concern that the person poses a danger to self or others.

DIGEST:

CSHB 3677 would allow certain medical facilities to detain a person with mental illness who poses a risk to self or others for up to four hours. The facility would be required to release the person at the end of the four-hour period unless the facility staff or physician arranged for a peace officer to take the person into custody or an order of protective custody was issued.

Written policy. A "facility" would include a hospital, a licensed emergency medical care facility, or certain applicable facilities providing mental health services. The governing body of a facility could adopt and implement a written policy that provides for the facility or a physician to detain a person who voluntarily requested treatment or who lacks the capacity to consent if:

- the person expressed a desire to leave or attempted to leave before an examination or treatment was completed;
- the physician believed that the person had a mental illness and was at substantial risk of serious harm to the person or others unless immediately restrained; and
- the physician believed there was insufficient time to file an application for emergency detention or seek an order of protective custody.

A facility's policy could not allow the facility or a physician at the facility to detain a person who had been transported to the facility for emergency detention. The policy would have to require:

- facility staff or physician to notify the person of the facility's intention to detain the person;
- a physician to document a decision to detain a person and place notice of detention in the person's medical record; and

- the period of detention to be less than four hours following the time the person first expressed a desire to leave or attempted to leave.

Detention under a policy adopted by a facility would not be considered involuntary psychiatric hospitalization. A physician, person, or facility that detained or did not detain a person under the policy in good faith and without malice would not be civilly or criminally liable. A facility would not be civilly or criminally liable for its governing body's decision to adopt or not adopt a policy.

This bill would take effect September 1, 2015.

SUBJECT: Increasing the population cap for subregional transportation authorities

COMMITTEE: Transportation — committee substitute recommended

VOTE: 11 ayes — Pickett, Martinez, Burkett, Y. Davis, Fletcher, Harless, Israel, Murr, Paddie, Phillips, Simmons

0 nays

1 absent — McClendon

WITNESSES: For — Kelly Allen Gray and Denis McElroy, City Of Fort Worth; (*Registered, but did not testify*: Jerry Valdez, City of Richland Hills, TX; Matthew Geske, Fort Worth Chamber of Commerce; Mark Mendez, Tarrant County Commissioners Court; Vic Suhm, Tarrant Regional Transportation Coalition)

Against — None

On — Nancy Amos, Fort Worth Transportation Authority; (*Registered, but did not testify*: John Barton and Marc Williams, Texas Department of Transportation)

BACKGROUND: Transportation Code, ch. 452, subch. N specifies the board membership and appointment process for transportation authorities in subregions that contain no city with a population greater than 800,000. Transportation Code, ch. 452, subch. O specifies the board membership and contains additional provisions for transportation authorities in subregions that include a principal city that has a population greater than 800,000.

The U.S. Census Bureau estimates the the population of Fort Worth in 2013 was about 793,000. The Fort Worth Transportation Authority is organized under Transportation Code, ch. 452, subch. N, which applies to subregions containing no city larger than 800,000 people. At its current rate of growth, Fort Worth may soon exceed that cap, if it has not already.

DIGEST: CSHB 3777 would change the description of subregional transportation

authorities under ch. 452, subch. N to specify that such an authority would have no municipality with a population of more than 1.1 million, instead of 800,000 as in current law. The bill would specify in references to these transportation authorities elsewhere in the Transportation Code that the 1.1 million population figure was based on the most recent decennial census. It also would make conforming changes in Tax Code, ch. 321 to reflect this new threshold.

In addition, the bill would expand the membership of the board of a subregion governed by subch. N from nine to 11 members. The principal municipality's governing body would appoint one of the new seats, and the county commissioners court would appoint the other, unless the principal municipality was not entirely located within one county. In that case, the county commissioners court would appoint both of the new seats.

The bill would change the population threshold for subregional transportation authorities under ch. 452, subch. O — those with a principal city with a population of 800,000 or more — to specify that the city would have a population of 1.1 million or more.

CSHB 3777 also would add provisions related to a municipality withdrawing from a subregional transportation authority, including the determination of the financial obligation of a withdrawn city to an authority.

This bill would take effect September 1, 2015.

SUBJECT: Exempting execution drug suppliers from public information requests

COMMITTEE: Government Transparency and Operation — committee substitute recommended

VOTE: 5 ayes — Elkins, Galindo, Gonzales, Leach, Scott Turner

2 nays — Walle, Gutierrez

WITNESSES: For — None

Against — Kelley Shannon, Freedom of Information Foundation of Texas; Stacy Allen, Texas Association of Broadcasters; Amanda Marzullo, Texas Defender Service; Zoe Russell; (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; Kristin Houle, Texas Coalition to Abolish the Death Penalty; Patricia Cummings, Texas Criminal Defense Lawyers Association; Donnis Baggett, Texas Press Association; and five others)

On — Adrienne McFarland and Edward Marshall, Office of the Attorney General; (*Registered, but did not testify*: Sharon Howell, Texas Department of Criminal Justice)

BACKGROUND: Government Code, ch. 552, subch. C provides exceptions to the state's public information law. Certain kinds of information, such as information that would threaten the safety of law enforcement or health care personnel, are designated as confidential by this subchapter and therefore not subject to release through public information requests.

Code of Criminal Procedure, art. 43.14 specifies the procedure for executing a convict via lethal injection.

Although few cases have been documented, suppliers of execution drugs have reported threats against their safety, and pharmacies have become reluctant to supply execution drugs because they may be identified through public information requests.

DIGEST:

CSHB 3846 would exempt from disclosure under the Public Information Act identifying information related to conducting an execution, including information on persons who participated in an execution and persons or entities that provided supplies for an execution. This would include any person or entity that manufactured, transported, tested, procured, compounded, prescribed, dispensed, or provided a substance or supplies to be used in an execution.

The bill also would specify that the names, addresses, and other identifying information of persons or entities who participated in or were involved in manufacturing or providing supplies for an execution would be confidential and excepted from disclosure under the public information law.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015, and would apply to public information requests filed on or after the effective date.

SUBJECT: State agency protection, destruction of information identifying individuals

COMMITTEE: Government Transparency and Operation — favorable, without amendment

VOTE: 6 ayes — Elkins, Walle, Galindo, Gutierrez, Leach, Scott Turner

0 nays

1 absent — Gonzales

WITNESSES: For — None

Against — None

BACKGROUND: Observers have noted that information maintained by universities or state agencies, in the event of a security breach, could compromise the personal records of students and state employees.

DIGEST: HB 3248 would amend Government Code, Subtitle B, Title 10 regarding general government information and planning by requiring state agencies, including institutions of higher education, to develop policies and procedures to properly secure identity-related information. This information would include electronic and any electronic backup of that information that alone or in conjunction with other information would identify an individual. Agencies would be required to implement electronic security strategies developed by the Department of Information Resources.

If not required to be retained under other law, a state agency would be required to destroy information that identified an individual to properly protect the information from disclosure.

The bill would take effect September 1, 2015.

SUBJECT: Regulating the journeyman lineman license and examination

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 8 ayes — Smith, Gutierrez, Geren, Goldman, Guillen, Kuempel, D. Miller, S. Thompson

0 nays

1 absent — Miles

WITNESSES: For — Michael Mosteit, Texas State Association of Electrical Workers IBEW; (*Registered, but did not testify*: Walt Baum, Association of Electric Companies of Texas (AECT); Rick Levy, Texas AFLCIO, Texas State Association of Electrical Workers IBEW)

Against — (*Registered, but did not testify*: Jon Fisher, Associated Builders and Contractors of Texas)

On — Thomas Monaco, Independent Electrical Contractors of Texas (IEC of Texas); (*Registered, but did not testify*: Renea Beasley, Independent Electrical Contractors of Texas (IEC of Texas); Brian Francis, Texas Department of Licensing and Regulation)

BACKGROUND: Under Occupations Code, sec. 1305.002, "journeyman lineman" means an individual who engages in electrical work involving the maintenance and operation of equipment associated with the transmission and distribution of electricity from the electricity's original source to a substation for further distribution.

Journeyman lineman license holders currently can work with power lines and other electricity sources that do not involve electricity past the point of entry into a structure, such as a residential home, but the definition does not specify this.

DIGEST: CSHB 3043 would specify that a journeyman lineman's work included the

installation of equipment used to distribute electricity. This work also would include electricity from the original source to the point where the electricity entered a building or structure.

The bill would require the Texas Department of Licensing and Regulation (TDLR) to establish a journeyman lineman examination to test an applicant's knowledge of materials and methods used in the journeyman lineman's work and the standards prescribed by the National Electrical Safety Code as adopted by the Texas Commission of Licensing and Regulation. The commission or the executive director of TDLR would be required to adopt the revised National Engineering Safety Code after it was published every five years for the use in the journeyman lineman's examination. The bill would require the commission to adopt rules necessary to implement the bill by March 1, 2016.

The bill would take effect September 1, 2015, and would apply only to an examination for a journeyman lineman license administered on or after June 1, 2016.

SUBJECT: Requiring certain retailers to register with the comptroller

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 9 ayes — Smith, Gutierrez, Geren, Goldman, Guillen, Kuempel, Miles, D. Miller, S. Thompson

0 nays

WITNESSES: For — Phillip Arp; (*Registered, but did not testify*: Adam Burklund, American Insurance Association; Kyle Frazier, Capitol Dome Partners; Beaman Floyd, Texas Coalition for Affordable Insurance Solutions)

Against — None

On — (*Registered, but did not testify*: Tommy Hoyt, Comptroller of Public Accounts; David Lancaster, Texas Society of Architects)

BACKGROUND: Tax Code, sec. 151.316(a) exempts from sales, excise, and use taxes certain items used for agricultural purposes, including materials used in building specific structures.

The complexity of agricultural sales tax exemptions, particularly for certain structures used in the agriculture industry, can make collections problematic.

DIGEST: CSHB 3039 would require metal building, roof, and component retailers to register with the comptroller. A metal building, roof, and component retailer would be defined as a person that sold, altered, or fabricated metal buildings, roofs, or other components used in the construction of metal buildings for agricultural purposes.

Retailers would be required to register with the comptroller by January 31 of each year. The registration would expire one year from the date of issue. The retailer would be required to provide certain information related to the identification of their agents and places of business in Texas. The

bill would allow the comptroller to charge a fee to cover the cost of registration. If a retailer failed to register, the retailer would be subject to a civil penalty of $500 or less.

The bill would require the comptroller to study the compliance of retailers who made taxable sales of buildings, roofs, or components during 2016 and conduct random audits of certain registered retailers. The comptroller would report the findings of the study to the 85th Legislature by January 31, 2017, and if the comptroller determined that retailers were not complying with Tax Code, ch. 151, the comptroller's report would include recommendations to improve compliance.

The bill would take effect January 1, 2016.

SUBJECT: Regulating certain conduct by discount health care programs

COMMITTEE: Insurance — committee substitute recommended

VOTE: 8 ayes — Frullo, G. Bonnen, Guerra, Meyer, Paul, Sheets, Vo, Workman

0 nays

1 absent — Muñoz

WITNESSES: For — Jay Bueche, Texas Federation of Drug Stores; (*Registered, but did not testify*: Audra Conwell, Alliance of Independent Pharmacists of Texas; Price Ashley, National Association of Chain Drug Stores (NACDS); Bradford Shields, Texas Federation of Drug Stores; Duane Galligher, Texas Independent Pharmacy Association; Justin Hudman, Texas Pharmacy Association; Michael Wright, Texas Pharmacy Business Council; Morris Wilkes, United Supermarkets; Karen Reagan, Walgreens)

Against — (*Registered, but did not testify*: Allen Erenbaum, Consumer Health Alliance)

On — (*Registered, but did not testify*: Jamie Walker, Texas Department of Insurance)

BACKGROUND: Insurance Code, sec. 7001.001 defines "discount health care program" to mean a business arrangement or contract in which an entity, in exchange for fees, dues, charges, or other consideration, offers its members access to discounts on health care services provided by health care provider. The term does not include an insurance policy, certificate of coverage, or other product otherwise regulated by the department or a self-funded or self-insured employee benefit plan.

"Discount health care program operator" under ch. 7001 means a person who, in exchange for fees, dues, charges, or other consideration, operates a discount health care program and contracts with providers, provider networks, or other discount health care program operators to offer access to health care services at a discount and determines the charge to

members.

DIGEST:

CSHB 3028 would prohibit a pharmacy benefit manager from requiring a pharmacist or pharmacy to:

- accept or process a claim for prescription drugs under a discount health care program, unless the pharmacist or pharmacy agreed in writing to accept or process the claim;
- participate in a specified provider network as a condition of processing a claim for prescription drugs under a discount health care program; or
- participate in, or process claims under, a discount health care program as a condition of participation in a provider network.

The bill would specify that certain actions were an unfair method of competition or an unfair or deceptive act or practice in the business of discount health care programs. These actions include a discount health care program operator or its affiliate or agent requiring a pharmacy or pharmacist to:

- participate in a specified provider network as a condition of processing a claim for prescription drugs under the discount health care program; or
- participate in, or process claims under, a discount health care program as a condition of participation in a provider network.

The bill also would specify that it would be an unfair method of competition or an unfair or deceptive act or practice in the business of discount health care programs for an operator to pay any consideration to a health care services provider or employee of a health care services provider:

- to encourage an individual to claim a discount for prescription drugs under a discount health care program; or
- to include discount health care program information on a prescription for a drug or in materials accompanying the prescription.

In addition, the bill would specify that it would be an unfair method of competition or an unfair or deceptive act or practice in the business of discount health care programs for an operator to provide a person with written prescription forms that could reasonably mislead a person to believe that the discount health care program was health insurance or would provide coverage similar to health insurance.

The bill would take effect September 1, 2015, and would apply only to conduct that occurred or to a claim that was filed on or after that date.

SUBJECT: Granting limited law enforcement power to Federal Reserve bank officers

COMMITTEE: Homeland Security and Public Safety — favorable, without amendment

VOTE: 8 ayes — Phillips, Nevárez, Burns, Dale, Metcalf, Moody, M. White, Wray

0 nays

1 absent — Johnson

WITNESSES: For — (*Registered, but did not testify*: Chris Jones, Combined Law Enforcement Associations of Texas)

Against — None

BACKGROUND: Code of Criminal Procedure, art. 2.122 delegates law enforcement powers of arrest, search, and seizure to specific criminal investigators in various situations.

DIGEST: HB 2346 would give commissioned law enforcement officers of Federal Reserve banks certain peace officer powers of arrest, search, and seizure for any state offense committed under certain circumstances.

This would apply for offenses committed:

- on the premises, grounds, or property of a Federal Reserve bank or the Federal Reserve System;
- while protecting personnel of a Federal Reserve bank;
- while protecting the Board of Governors or members of the board of the Federal Reserve System; or
- while protecting operations conducted by or on behalf of a Federal Reserve bank or the board of governors.

This bill would take effect September 1, 2015.

SUBJECT: Establishing a program for redistribution of certain unused prescriptions

COMMITTEE: Public Health — committee substitute recommended

VOTE: 9 ayes — Crownover, Naishtat, Coleman, S. Davis, Guerra, R. Miller, Sheffield, Zedler, Zerwas

0 nays

2 absent — Blanco, Collier

WITNESSES: For — Sherry L. Hill, Cross Timbers Health Clinics, Inc., TACHC; Bradford Holland, Texas Medical Association, McLennan County Medical Society; (*Registered, but did not testify*: Chris Frandsen, League of Women Voters of Texas; Dan Finch, Texas Medical Association; John Davidson, Texas Public Policy Foundation)

Against — John (Lin) McCraw, Texas Trial Lawyers Association; (*Registered, but did not testify*: Rene Garza, Texas Pharmacy Association; Bryan Blevins, Texas Trial Lawyers Association)

On — Tracey Bronnenberg, Department of State Health Services; Gay Dodson, Texas State Board of Pharmacy; (*Registered, but did not testify*: Karen Tannert, Department of State Health Services; Andy Vasquez, Health and Human Services Commission)

BACKGROUND: Under current law, nursing homes are not allowed to transfer unused medication to a person other than the person to whom the medication was prescribed.

In the event of a nursing home resident's transfer, change of prescription, or death, unused medication must be thrown away. Other states have set up programs to recycle unused, sealed medication.

DIGEST: CSHB 2271 would require the Department of State Health Services (DSHS) to establish a pilot program for the donation and redistribution of prescription drugs. The program would be conducted in one or more

municipalities with a population of more than 500,000 but less than 1 million.

Donations. Under the program, a charitable drug donor could donate certain unused prescription drugs to DSHS. The department would not accept the drugs unless the drugs were properly stored while in the donor's possession, the department was provided with a verifiable address and phone number of the donor, and the person transferring the drugs presented photo identification.

Donated drugs would be required to be prescription drugs that had been approved by the U.S. Food and Drug Administration and were sealed in unopened tamper-evident unit dose packaging. Drugs packaged in single-unit doses would be acceptable if the outside packaging was opened but the single unit dose packaging was unopened.

The drugs could not be subject to a mandatory or voluntary recall, adulterated or misbranded, a controlled substance, a parenteral or injectable medication, require refrigeration, or expire less than 60 days after the date of donation.

DSHS would not be permitted to distribute the drugs without inspection by a licensed pharmacist. It also would not be permitted to charge a fee for the drugs other than a nominal handling fee, or resell the drugs.

DSHS would be required to establish a location to centrally store drugs for distribution to qualifying patients. The department also would be required to establish and maintain an electronic database in which the name and quantity of each drug was listed and a charitable medical clinic, physician, or other licensed health care professional could search for and request drugs donated under the pilot program.

Administration of donated drugs. Drugs would be administered to patients only by a charitable medical clinic, a licensed health care professional in a Texas penal institution, or a physician's office using the drugs for indigent health care or for patients who receive Medicaid assistance.

A drug would be required to be prescribed for the patient. The clinic or physician administering the drug could not charge a fee for the drugs, other than a nominal handling fee, or resell the drugs.

Qualified individuals acting in good faith in administering drugs under the pilot program would not be civilly or criminally liable or subject to professional disciplinary action for harm caused by administering drugs unless the harm was caused by negligence, recklessness or indifference, or intentional conduct.

Reports. On or before January 1 of each odd-numbered year, DSHS would be required to report to the Legislature on the results of the pilot program. The report would be required to include:

- the program's efficacy in expanding access to prescription medications;
- any cost savings to the state or local government;
- an evaluation of the program's database and system of distribution;
- any health and safety issues;
- recommended improvements; and
- an evaluation of potential expansion of the program.

DHSH would be required to establish rules governing the program. The department would be required to establish the central repository and database for the donated drugs by December 1, 2015.

The bill would take effect September 1, 2015, and would apply only to a drug donated, accepted, provided or administered after January 1, 2016.

NOTES: The Legislative Budget Board estimates that the bill would have a negative impact of $8.6 million through fiscal 2016-17.

SUBJECT: Establishing a residential energy efficiency loan program

COMMITTEE: Energy Resources — committee substitute recommended

VOTE: 11 ayes — Darby, Paddie, Anchia, Dale, Herrero, Keffer, P. King, Landgraf, Meyer, Riddle, Wu

1 nay — Craddick

1 absent — Canales

WITNESSES: For — Cyrus Reed, Lone Star Chapter Sierra Club; Jeffrey Trucksess, NAIMA; Todd McAlister, Texas Air Conditioning Contractors Association; Peter Gage, WHEEL Partnership; (*Registered, but did not testify*: Kenneth Flippin; Michael Jewell, CLEAResult Consulting, Inc., Environmental Defense Fund; Jennifer Rodriguez, Plumbing-Heating-Cooling Contractors Association of Texas; Theodore Wickersham, Jr., Public Citizen Inc.; David Weinberg, Texas League of Conservation Voters; David Lancaster, Texas Society of Architects; Daniel Womack, The Dow Chemical Company; David Matiella, U.S. Green Building Council; Lisa Valdivia, U.S. Green Building Council; Scott Gerhardt, US Green Building Council Central Texas Chapter)

Against — None

On — Doug Lewin, South-central Partnership for Energy Efficiency as a Resource (SPEER)

BACKGROUND: The Environmental Protection Agency (EPA) is authorized under the federal Clean Air Act to establish or revise national ambient air quality standards. The Clean Air Act requires states to develop implementation plans to meet the new national standards.

Health and Safety Code, sec. 389.002 requires the Texas Commission on Environmental Quality to use data from certain reports when reporting to the EPA progress toward emissions reduction objectives established in the state implementation plan.

Residential households, many of which are older and lack energy efficiency upgrades, account for a significant part of the state's overall energy use. This has a direct effect on the state's ability to meet federal air quality standards.

DIGEST:

CSHB 2392 would direct the State Energy Conservation Office to establish and administer a self-sustaining loan program for improvements that increase the energy efficiency of existing residences. Rules adopted to implement these provisions would have to establish eligibility requirements for the receipt of a loan, including emissions reductions criteria.

The bill would require the State Energy Conservation Office to annually report the energy and emissions reductions effected by this loan program to the Texas Commission on Environmental Quality and the Texas A&M Energy Systems Laboratory. These reports would be used by the commission when reporting on progress toward emissions objectives in the state implementation plan.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUBJECT: Amending court procedures and services for truancy offenses

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 6 ayes — Dutton, Hughes, Peña, Rose, Sanford, J. White

0 nays

1 present not voting — Riddle

WITNESSES: For — David Cobos, Justices of the Peace and Constables Association of Texas; Lisa Tomlinson, Texas Probation Association; Greg Glod, Texas Public Policy Foundation; (*Registered, but did not testify*: T.J. Patterson, City of Fort Worth; Ron Quiros, Guadalupe County Juvenile Services; John Kreager, Texas Criminal Justice Coalition; Yannis Banks, Texas NAACP; Nellie Reyes; Daniel Segura)

Against — None

On — (*Registered, but did not testify*: Charles Reed, Dallas County Commissioners Court)

BACKGROUND: Education Code, sec. 25.094 makes it a class C misdemeanor (maximum fine of $500) for an individual who is required to attend school and is between the ages of 12 and 17 to fail to attend school on 10 or more days or parts of days within a six-month period or on three or more days or parts of days within a four-week period. Offenses may be prosecuted in municipal or justice courts or in constitutional county court if the county where the student lives or where the school is located has a population of 1.75 million or more. Parents also may be found guilty of the offense of being a parent contributing to school nonattendance, under Education Code, sec. 25.093.

Truancy also is considered "conduct indicating a need for supervision" under Family Code, sec. 51.03(b)(2) and is a civil matter when handled through juvenile probation and the juvenile courts.

Some have advocated for reforms to these truancy policies, stating that many students who miss school may do so because of economic reasons and should not be burdened with a criminal record for something over which they had no control.

DIGEST:

CSHB 2398 would make several changes to the Government Code, Code of Criminal Procedure, Family Code, and Local Government Code to amend the court processes and responses for truancy cases.

Judicial donation trust. CSHB 2398 would enable the creation of judicial donation trusts, which could accept gifts, grants, donations, or other funds from public or private sources to provide money for resources and services that would eliminate barriers to school attendance or would prevent other criminal behavior.

These accounts would be held outside of municipal or county treasuries and would be administered by the governing body of a municipality or the commissioners court of a county. These entities also would be responsible for developing necessary procedures and eligibility requirements for receiving and disbursing funds. In general, awards would be made from the funds to children and families who appeared before the court for truancy or curfew violations or another misdemeanor offense.

Dismissal of truancy-related charges. CSHB 2398 would permit a court, within its discretion, to dismiss a truancy charge under Education Code, sec. 25.094 or a parent contributing to school nonattendance charge under Education Code, sec. 25.093 if the court found that a dismissal would be in the interest of justice because there was a low chance of recidivism or sufficient justification existed for the child's failure to attend school.

The bill also would permit a court to dismiss, with prejudice, a child in need of supervision case under Family Code, sec. 51.03 for truancy based on the same criteria.

Automatic expunction of truancy records. Students convicted of a truancy offense or who had a truancy complaint dismissed would be entitled to have the conviction or complaint and related records automatically expunged. The court handling the case would be required to

order the records, including documents in possession of the school district or a law enforcement agencies, to be expunged from the student's record. After a court entered an expunction order, the conviction or complaint could not be shown or made known for any purpose. The court would be required to tell the student of the expunction.

CSHB 2398 would take effect September 1, 2015, and courts could dismiss truancy cases under the bill's provisions only for conduct that occurred on or after that date. The bill's provisions regarding expunction of truancy records under the Code of Criminal Procedure would apply only to the expunction or destruction of any records or files existing on or after the effective date of the bill, regardless of when the offense or conduct took place.

SUBJECT: Expanding certain legal services provided to a county auditor

COMMITTEE: County Affairs — committee substitute recommended

VOTE: 7 ayes — Coleman, Farias, Burrows, Romero, Schubert, Tinderholt, Wu

1 nay — Spitzer

1 absent — Stickland

WITNESSES: For — Katie Conner and Edward Dion, Texas Association of County Auditors

Against — None

On — Robert Bass, County Judges and Commissioners Association of Texas; Donald Lee, Texas Conference of Urban Counties; Robert Kepple, Texas District and County Attorneys Association; (*Registered, but did not testify*: Jim Allison, County Judges and Commissioners Association of Texas)

BACKGROUND: Government Code, sec. 41.007 requires district or county attorneys, on request, to give to a county or precinct official of their district or county a written opinion or written advice relating to the official duties of that official.

Local Government Code, sec. 157.901 entitles a county official or employee sued by any entity, except for the county that the official or employee serves, for an action arising from the performance of a public duty to representation by the district or county attorney or both.

In these sections, a county auditor is not specifically entitled to the advice or representation of district or county attorneys described above.

DIGEST: HB 2524 would allow a county or precinct official, including county auditors, to request in writing from the district or county attorney any opinion or advice related to official duties of the position, including

statutory interpretation of the official's duties. This would amend language in current law requiring that district and county attorneys provide this information upon request.

By the 30th day after the written request was submitted, the district or county attorney would be required to:

- grant the request and provide the written opinion or advice;
- deny the request in writing; or
- provide written notice to the official that the request could not be answered within the required time frame and give a reasonable date by which the request would be answered.

This bill would entitle officials, including county auditors, to legal representation from the district or county attorney if a suit arose from the official's performance of a public duty as a result of following the opinion or advice given by the district or county attorney.

The official would not be entitled to legal representation if the official sought and received legal advice but did not implement the advice and a suit arose from the official's failure to implement the advice. The bill would require the official to personally reimburse the county for any damages incurred by the county as a result of the official's failure to implement the advice.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015, and would apply only to a written request submitted by an official on or after that date.

SUBJECT: Recovery of personal property from residences when access is denied

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Smithee, Farrar, Clardy, Hernandez, Laubenberg, Raymond, Schofield, Sheets, S. Thompson

0 nays

WITNESSES: For — Catherina Conte, Asian Family Support Services of Austin; Bobby Gutierrez and Carlos Lopez, Justice of the Peace and Constables Association of Texas; Brittany Hightower, Texas Advocacy Project; David Mintz, Texas Apartment Association; (*Registered, but did not testify*: Gretta Gardner, Austin/Travis County Family Violence Task Force; Sandy Ward and Angela Smith, Fredericksburg Tea Party; Jama Pantel, Kirsha Haverlah and Mario Martinez, Justices of the Peace and Constables Association; Heather Bellino, Texas Advocacy Project; Tracy Grinstead-Everly, Texas Council on Family Violence; Lon Craft, Texas Municipal Police Association; Kevin Dietz; Matt Long)

Against — None

BACKGROUND: Under current law, it is difficult to receive a court order to retrieve property when one family member refuses to allow another to enter their home. This is particularly an issue when a victim of domestic violence leaves the victim's partner and is denied access to the residence.

DIGEST: CSHB 2486 would allow people who are denied, by the current occupant, entrance to their residence or former residence to apply to a justice court for an order authorizing the individual to enter the residence accompanied by a peace officer to retrieve personal property.

The application would be required to:

- certify that the current occupant had denied the person access to the residence;
- certify that the applicant is not the subject of any court order

prohibiting entry to the residence, or otherwise prohibited by law from entering the residence;
- allege that the applicant or the applicant's dependent required personal items;
- describe the items with specificity; and
- allege that the applicant or the applicant's dependent would suffer personal or financial harm if the items listed were not retrieved.

Under the bill, if a justice of the peace found sufficient evidence of hardship and urgency and that the allegations in the application were true, the justice of the peace could grant the application and issue an order authorizing the applicant to enter the residence accompanied by a peace officer to retrieve the property.

If a justice of the peace approved an application, a peace officer would be required to accompany and assist the applicant. If the occupant was present at the residence, the peace officer would provide the occupant with a copy of the court order.

An applicant would submit all property retrieved to the peace officer, and the peace officer would:

- create an inventory of the items taken;
- provide a copy to the applicant;
- provide a copy to the current occupant, or if the occupant was not present, leave a copy in a conspicuous place in the residence;
- return the property to the applicant; and
- file the original inventory with the court.

Under this bill, a peace officer would be authorized to use reasonable force in assisting an applicant. If the officer provided assistance in good faith and with reasonable diligence, the officer would not be liable for any acts or omissions that arose when providing assistance or for the wrongful appropriation of any personal property by the applicant.

The bill would create an offense for any person who interfered with a person or peace officer entering a residence to retrieve personal property

under a court order. The offense would be a class B misdemeanor (up to 180 days in jail and/or a maximum fine of $2,000). There would be a defense to prosecution if the actor did not receive a copy of the court order or other notice that the entry was authorized.

The occupant would be able to file a complaint in the court that issued the order, within 10 days, alleging that the applicant appropriated the occupant's property.

This bill would take effect September 1, 2015.

SUBJECT: Changing regulations related to plumbers

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 8 ayes — Smith, Gutierrez, Geren, Goldman, Guillen, Kuempel, D. Miller, S. Thompson

0 nays

1 absent — Miles

WITNESSES: For — Paul Lawrence, Texas Rainwater Catchment Association; Stanley Briers, Texas Plumbing Air Conditioning Mechanical Contractors Association; Robert Doran; (*Registered, but did not testify*: Alicia Dover, Associated Plumbing Heating Cooling Contractors of Texas; Leonard Aguilar, Southwest Pipe Trades Association)

Against — None

On — (*Registered, but did not testify*: Lisa Hill, Texas State Board of Plumbing Examiners)

BACKGROUND: Occupations Code, ch. 1301, establishes the Texas State Board of Plumbing Examiners, which is responsible for licensing and registering plumbers and enforcing plumbing regulations.

Due to the technological advancement of plumbing systems, some have called for new codes and standards to be adopted to account for industry changes.

DIGEST: CSHB 2465 would make several changes to regulations governing plumbers.

The bill would require the board to adopt certain codes as they existed January 1, 2015. The board could adopt by rule a new edition of any applicable code that was revised after January 1, 2015, if the board

determined that the use of the new edition was in the public interest and was consistent with the purposes of Occupations Code, ch. 1301.

The bill would increase the number of hours from 500 to 1,000 of work experience the board could credit a plumber's apprentice with if the apprentice requested and had completed the classroom portion of a certain training program. These hours could count toward the required work experience hours needed before an apprentice could take an examination for a license.

The bill would create an exception to the licensing requirements for plumbers in cases where the person was employed by a political subdivision to engage in plumbing-related work only within the geographical boundaries of the political subdivision.

A continuing professional education course needed for the renewal of licenses and endorsements related to plumbing, and certificates of registration for drain cleaners, drain cleaner-restricted registrants, or residential utilities installers, would be required to include training in applicable state regulations, board rules, and board-approved plumbing codes. This would be in addition to the training in health protection and conservation of energy or water that is required under current law.

The bill would require a plumber's apprentice renewing their certificate of registration for the third or more time to complete the training noted above. This training requirement would not apply to renewals of licenses, endorsements, or certificates of registration that expired before the effective date of this bill.

A plumber's apprentice would be exempted from the renewal training requirement if the apprentice was enrolled and in good standing in a training program approved by the U.S. Labor Department or if the board determined that the exemption would be in the public interest.

The board would require a person seeking a medical gas piping installation endorsement to complete a board-approved training program in that area before taking the examination required for endorsement. This requirement would not apply to applications for such an endorsement

submitted before the effective date of this bill. The bill also would require certain municipalities to regulate by ordinance or bylaw the maintenance, including construction and inspection, of fixtures that facilitated medical gas or medical vacuum.

The bill would add falsifying of a test for an inspection as a violation subject to disciplinary action.

The bill also would change the requirements or qualifications of certain members of the nine-member Texas State Board of Plumbing Examiners, which would apply only to a member appointed on or after the effective date of this bill.

The bill would take effect September 1, 2015, and the board would be required to adopt necessary rules to implement the bill as soon as practicable after that date.

SUBJECT: Allowing adverse possession of property by a cotenant heir after 15 years

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 5 ayes — Smithee, Laubenberg, Raymond, Schofield, Sheets

2 nays — Farrar, S. Thompson

2 absent — Clardy, Hernandez

WITNESSES: For — Aaron Day, Texas Land Title Association; Joe Maley; (*Registered, but did not testify*: Joey Park, South Texas Property Rights Association; Josh Winegarner, Texas Cattle Feeders Association; Marissa Patton, Texas Farm Bureau)

Against — None

BACKGROUND: Under the Civil Practice and Remedies Code, the doctrine of adverse possession cannot be asserted against a cotenant heir. If there is no deed or title, a person can acquire rights to real property after adversely possessing the property for 10 years, if all requirements are met.

DIGEST: HB 2544 would allow a cotenant heir to adversely possess real property against another cotenant heir after 15 years.

Definition. Under the bill, cotenant heirs would be persons who simultaneously acquired an identical, undivided ownership interest in, and the right to possession of, the same real property by operation of the applicable intestate succession laws of this state or a successor in interest of one of those persons.

Requirements. Cotenant heirs who were in possession of the property could acquire the interests of another cotenant heir through adverse possession if they:

- continuously possessed the property for 10 years;
- peaceably and exclusively had possession of the property;

- cultivated, used, or enjoyed the property; and
- paid all property taxes within two years of the taxes being due.

Disqualifying actions. The possessing cotenant heirs would not be able to assert adverse possession if another cotenant had:

- contributed to the property's taxes or maintenance;
- challenged a possessing heir's exclusive possession;
- asserted any other claim against a possessing heir in connection with the property, such as the right to rental payments;
- acted to preserve his or her own interest in the property by filing notice of interest in the applicable county's deed records; or
- entered into written agreements allowing the possessing heir to possess the property but not forfeiting the other heir's rights.

Claim of adverse possession. To make a claim of adverse possession, the possessing cotenant heir would have to file appropriate affidavits in the deed records of the county where the property was located, publish notice in a generally circulated newspaper in the county for a month, and send written notice by certified mail to the last known addresses of all other cotenant heirs.

Affidavits. The required affidavits could be filed separately or combined into a single document. The affidavits would have to include a legal description of property, an attestation that all requirements for adverse possession were met, and an attestation that there had been no disqualifying actions by other cotenant heirs.

Converting affidavits. In order to interrupt a claim of adverse possession by a possessing cotenant heir, another cotenant heir would have to file a controverting affidavit within five years after the cotenant heir filed the affidavits.

Rights acquired. The possessing heir would acquire the title and rights to the property, which would prevent all claims by other heirs, if the other cotenant heirs fail to file either a notice of interest during the 10-year adverse possession period or a controverting affidavit within the five years

of the possessing cotenant heir's affidavit.

A bona fide lender for value (e.g., a bank offering a mortgage) could rely on the possessing cotenant heir's affidavit if it had been filed for five years and no controverting affidavit or judgment had been filed.

Acreage. Without a title document, the possessing cotenant heir would be able to adversely possess only 160 acres. If the acreage were enclosed, the possessing tenant could adversely possess all enclosed acreage, even if it exceeded 160 acres. If there were a registered deed that fixed the boundaries of the property, the possessing cotenant's claim could extend to the boundaries specified in the deed.

The bill would take effect September 1, 2015.

SUBJECT: Creating a task force on infectious disease preparedness and response

COMMITTEE: Public Health — committee substitute recommended

VOTE: 10 ayes — Crownover, Naishtat, Blanco, Coleman, S. Davis, Guerra, R. Miller, Sheffield, Zedler, Zerwas

0 nays

1 absent — Collier

WITNESSES: For — (*Registered, but did not testify*: Julie Acevedo, Texas Fire Chiefs Association; Darren Whitehurst, Texas Medical Association; Thomas Ratliff, Texas Nurse Practitioners; Casey Smith, United Ways of Texas)

Against — None

On — (*Registered, but did not testify*: Marilyn Felkner, Texas Department of State Health Services)

BACKGROUND: Some say that cases of Ebola diagnosed in Dallas in 2014 highlighted the need for changes in the state's preparedness in responding to infectious disease.

DIGEST: CSHB 2950 would add Subchapter J to Health and Safety Code, ch. 81 to establish a task force on infectious disease preparedness and response.

Duties. The task force would advise the Department of State Health Services (DSHS) and would:

- provide expert, evidence-based assessments, protocols, and recommendations related to state responses to infectious diseases, such as Ebola, and a strategic emergency management plan for state and local levels of government;
- develop a comprehensive plan to ensure that Texas was prepared for the potential of widespread outbreak of infectious diseases and could provide rapid response to protect the safety and well-being of

Texas citizens;
- evaluate available supplies and resources; and
- serve as a reliable and transparent source of information.

The task force would develop the plan using the expertise of medical professionals in Texas and other states and would collaborate with local government and health officials. It would use, as practicable, the Texas Emergency Preparedness Plan, identify various responses necessary in the event of an epidemic, establish a command and control structure, and coordinate with appropriate entities to ensure public awareness and education regarding any pandemic threat.

Members. The commissioner of DSHS would appoint task force members as necessary, including members from relevant state agencies, members with expertise in infectious diseases, and members from Texas higher education institutions. The commissioner would appoint to the task force at least:

- one member representing a local health authority serving a rural area;
- one member representing a local health authority serving an urban area;
- one licensed physician;
- one licensed nurse;
- one emergency medical services personnel; and
- one member representing a hospital.

The commissioner would appoint a director of the task force from among the members.

Meetings. The task force would be required to meet at times and locations determined by the director. The task force could hold a closed meeting to discuss matters that were confidential by state or federal law or to ensure public security or law enforcement needs.

Reports. The task force would be required to report to DSHS, the governor, Legislature, Texas Medical Board, and relevant medical

associations as often as necessary to make recommendations for updating protocols for addressing infectious diseases. The task force would make written reports, including legislative recommendations, on December 1 of each even-numbered year.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUBJECT: Allowing a concealed handgun license as valid proof of identification

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 5 ayes — Oliveira, Simmons, Fletcher, Romero, Villalba

2 nays — Collier, Rinaldi

WITNESSES: For — (*Registered, but did not testify*: Michael Weaver, Church Group; Angela Smith, Fredericksburg Tea Party; Matt Long; Sandy Ward)

Against — None

BACKGROUND: Government Code, ch. 411, subch. H establishes the requirements for obtaining a concealed handgun license.

Because eligibility and verification requirements for obtaining a concealed handgun license are more extensive than those for acquiring a driver's license, some have called for concealed handgun licenses to be allowed to serve as valid proof of identification.

DIGEST: HB 2739 would allow the use of a concealed handgun license as valid proof of identification and would prohibit denying a concealed handgun license holder access to goods, services, or facilities because the license holder presented the concealed handgun license rather than a driver's license or other acceptable form of personal identification. However, a driver's license still would be required instead of a concealed handgun license to rent or operate a vehicle.

This bill would not affect the requirement that a person carrying a handgun show both a driver's license (or identification certificate) in addition to a handgun license when demanded by a magistrate or peace officer. The bill would not affect the types of identification that are required to access airport premises or pass through airport security.

The bill would take effect September 1, 2015.

SUBJECT: Children with Special Health Care Needs Program name change, waitlist

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 8 ayes — Cook, Giddings, Farney, Geren, Harless, Huberty, Kuempel, Smithee

0 nays

4 absent — Craddick, Farrar, Oliveira, Sylvester Turner

WITNESSES: For — None

Against — None

On — (*Registered, but did not testify*: Sam Cooper, Department of State Health Services)

BACKGROUND: Health and Safety Code, ch. 35 establishes the Children with Special Health Care Needs (CSHCN) Services Program within the Department of State Health Services. A person eligible to receive services under the CSHCN program is defined as someone younger than 21 years of age who has a chronic physical or developmental condition, or as someone who has cystic fibrosis, regardless of the person's age. The executive commissioner of the Health and Human Services Commission also is empowered to establish further eligibility qualifications by rule, including by defining medical, financial, and other criteria for service.

The CSHCN program provides services including early identification of children with special health care needs and case management services to eligible individuals. If the program has budgetary limits, the executive commissioner may establish a waiting list if necessary.

Because the program serves individuals above the age of 21 who have cystic fibrosis, some have found the program's name and language misleading. In addition, a 2006 report found that many recipients of the CSHCN program, which maintains a waitlist, are not lawfully present in

the United States.

DIGEST:

CSHB 2835 would rename the Children with Special Health Care Needs program the "Texas Special Health Care Needs Program," and amend the language throughout chapter 35 to replace the word "child" or "children" with "person." The bill would make several conforming changes in language to reflect this overall change.

To the extent allowable under federal law, the bill would require the Department of State Health Services to give priority for services to those on the waitlist who could provide proof of U.S. citizenship. The executive commissioner of the Health and Human Services Commission would be required to adopt rules to implement the change.

The changes in law to waiting list criteria would apply to eligible persons placed on the waiting list following an initial determination or redetermination of eligibility for services made on or after September 1, 2015.

The bill would take effect September 1, 2015.

NOTES:

The Legislative Budget Board estimates CSHB 2835 would have a negative impact of $1.3 million on general revenue in fiscal 2016 due mainly to technology costs.